

**EAST BRANDYWINE TOWNSHIP BOARD OF SUPERVISORS
AM SESSION
October 6, 2022**

Those in Attendance:

Kyle Scribner, Chairman
Carl K. Croft, Vice-Chairman
Jason Winters, Supervisor
Luke D. Reven, Township Manager
Matthew VanLew, Township Roadmaster
Mark Kocsi, Chief of Police
Tom Oeste, Township Solicitor
Lisa Taraschi, Township Secretary
Nate Cline, Township Engineer

The East Brandywine Township Board of Supervisors meeting of Thursday, October 6, 2022 was called to order at 8:30 AM at the East Brandywine Township Municipal Complex.

Opening of Meeting

Chairman Scribner opened the meeting by announcing that this meeting is being recorded.

Public Comment on Agenda Items

There was no public comment.

Approval of Minutes

Supervisor Winters made a motion to approve the meeting minutes from the September 1st Board meeting. Vice-Chairman Croft seconded the motion, with all members voting Aye. Motion passed 3-0.

Treasurer's Report, Authorization to Pay Bills and Approve Payroll

Vice-Chairman Croft made a motion to authorize the payment of bills and approve payroll. Supervisor Winters seconded the motion, with all members voting Aye. Motion passed 3-0.

Reports

There was none.

Old Business

There was none.

New Business

Pet-Sitting Business: New Definition Proposal

Ms. Gina DeMarco appeared before the Board to discuss a change to the ordinance regarding pet sitting vs a kennel. Ms. DeMarco initially appeared before the Board approximately six to eight months ago. She added that she spoke to the Ordinance Task Force about limiting the ordinance to the R-2 area and was asked to follow up in six months. Ms. DeMarco stated when she called Mr. Wagoner back, she was told they made the decision not to make the change to the ordinance. A lengthy discussion followed resulting in Supervisor Winters stating that he would like to sit down with the Ordinance Task Force to discuss at their October 26th meeting. Chairman Scribner suggested Ms. DeMarco attend the November 23rd Ordinance Task Force meeting for further discussion and resolution.

Offer of Dedication Smokehouse Farm

Mr. Rick Bates informed the Board that he was ready to dedicate the road to the Township. He added one of the outstanding issues was the trees that were to be planted up and down the road and his willingness to take the escrow money and put the trees where they are needed elsewhere. Mr. Reven stated at the Planning Commission meeting the night prior, it was mentioned that the road was not initially set up to be dedicated to the Township. Mr. Bates stated that they have private roads within the subdivision, however, he built the road to Township requirements so it could be dedicated. Mr. Oeste suggested that he and the Township Engineer review the plan to verify what is being offered for dedication. After further discussion Chairman Scribner suggested a meeting be scheduled with the Township Engineer, Roadmaster and Solicitor and Mr. Bates to review all documents prior to making a decision. Mr. Vanlew asked Mr. Bates to bring to the meeting the Deed of Dedication and Meets and Bounds paperwork. The meeting is scheduled for October 13th. Mr. Cline suggested targeting November 3rd to appear back before the Board for dedication.

Permission to Advertise Chester County Stormwater Ordinance

Mr. Reven presented a red lined copy of the existing stormwater code Chapter 345; he explained that the Township is required to adopt the model Stormwater Ordinance of the County. He added these changes are mandatory. He respectfully asked the Board for permission to advertise the Stormwater Ordinance for adoption at a later date.

Vice-Chairman Croft moved that the Township advertise the Chester County Storm Water Ordinance. Supervisor Winters seconded the motion. With all members voting Aye, Motion passed 3-0.

Appointment of Public Works Employee: Tanner Gledhill

Mr. VanLew informed the Board that an applicant had been chosen for one of the open positions on the road crew. He respectfully asked the Board to appoint Tanner Gledhill as the new full-time Public Works Employee.

Vice-Chairman Croft made a motion to accept Tanner Gledhill as a new road crew employee. Supervisor Winters seconded the motion. With all members voting Aye, Motion passed 3-0.

Subdivision & Zoning Applications

There was none.

Ordinances & Resolutions for Consideration

Resolution 17 of 2022: Adoption of the Comprehensive Plan Update of 2022

After a brief discussion Mr. Reven presented the Resolution to the Board. A copy, verbatim et literatim, is attached to these minutes and made part of the record.

**EAST BRANDYWINE TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA
RESOLUTION NO. 17 OF 2022**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF
EAST BRANDYWINE TOWNSHIP TO ADOPT THE
COMPREHENSIVE PLAN UPDATE 2022**

WHEREAS, Article III of the Pennsylvania Municipalities Planning Code, (the "MPC") requires municipalities to review and update their comprehensive plan every ten years; and

WHEREAS, the East Brandywine Township Comprehensive Plan Task Force, with assistance from various planning consultants, developed a revised Comprehensive Plan titled, "East Brandywine Township Comprehensive Plan Update 2022" (the "2022 Plan"); and

WHEREAS, pursuant to Section 302(a) of the MPC, the Township Planning Commission considered and discussed the 2022 Plan at its public meeting on September 7, 2022 and recommended to the Board that it approve the 2022 Plan; and

WHEREAS, pursuant to Section 301(c) and Section 301.3 of the MPC, a copy of the 2022 Plan was sent to the Chester County Planning Commission which issued its recommendations to the Board in correspondence dated September 7, 2022; and

WHEREAS, pursuant to Section 301.3 of the MPC, the Township sent copies of the 2022 Plan to the governing bodies of Caln, East Caln, Upper Uwchlan, Uwchlan, Wallace and West Brandywine Townships and the Downingtown Area School District for review and comment; and

WHEREAS, pursuant to Section 302(b) of the MPC, the Board conducted a public hearing on the 2022 Plan on October 6, 2022, pursuant to public notice.

NOW THEREFORE, BE IT HEREBY RESOLVED that the Board of Supervisors of East Brandywine Township hereby adopts the 2022 Plan which is comprised of the maps, charts, textual matter, and all other materials constituting a part thereof as more particularly specified in the Table of Contents of the 2022 Plan attached hereto as Exhibit "A", incorporated herein by reference and made a part hereof, and the said 2022 Plan is hereby adopted as the Comprehensive Plan of East Brandywine Township.

BE IT FURTHER REVISED that the 2009 East Brandywine Township Comprehensive Plan is hereby repealed and of no further force and effect. RESOLVED AND EFFECTIVE this 6th day of October, 2022.

Vice Chairman Croft made a motion to adopt Resolution 17 of 2022 Comprehensive Plan update. Supervisor Winters seconded the motion, with all members voting Aye. Motion passed 3-0.

Resolution 18 of 2022: Preliminary Plan Approval McCausland Plank Sub Division

After a lengthy discussion between the Board, Township Manager Reven, Solicitor Oeste, the applicants, Vic Kelly and John Mostoller and Township Engineer Nate Cline, Mr. Tom Oeste presented the Resolution to the Board. A copy, verbatim et literatim, is attached to these minutes and made part of the record.

**RESOLUTION NO. 18 of 2022
EAST BRANDYWINE TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

**A RESOLUTION CONDITIONALLY APPROVING THE PRELIMINARY SUBDIVISION AND LAND
DEVELOPMENT PLAN FOR THE
MCCAUSLAND/PLANK TRACT**

WHEREAS, on April 6, 2022, ELU-PLANEBROOK GUTHRIESVILLE, LLC ("Applicant"), as equitable owner, filed with East Brandywine Township an Application for Preliminary Subdivision and Land Development Approval and plans, studies, and documents in support thereof (collectively the "Application") for properties legally owned by DNB First Trust, UPI No. 30-5-144.5, and Sharon H. Fisherowski, UPI NO. 30-5-144.8 (collectively the "Property"); and

WHEREAS, the plan subject of this Resolution is titled "Preliminary Subdivision & Land Development Plan for McCausland/Plank Tract" prepared by Commonwealth Engineers, Inc., dated March 31, 2022, last revised September 22, 2022, consisting of 33 plan sheets (the "Preliminary Plan"); and

WHEREAS, the Application seeks approval of the Preliminary Plan which depicts a traditional neighborhood development consisting of 89 single-family attached dwelling units and related improvements (the "Project"); and

WHEREAS, the Preliminary Plan also depicts proposed Road A which will provide access to the Project to and from Horseshoe Pike and a portion of the potential Reeceville Road extension which may connect Horseshoe Pike and Bondsville Road; and

WHEREAS, the Preliminary Plan also depicts a 5.704 acre area for the disposal of treated sanitary sewer effluent labeled as "Potential Drip Field"; and

WHEREAS, by Decision and Order dated October 6, 2021, the Zoning Hearing Board of East Brandywine Township granted a special exception to permit the disturbance of steep slopes for the construction of a road and installation of public utilities for the Project (the "ZHB Decision"); and

WHEREAS, by Decision and Order dated March 3, 2022, the Board of Supervisors granted conditional use approval for the following modifications to the Preliminary Plan and Project: to allow reduction of the riparian buffer to 50 feet; to permit disturbance of existing vegetation in the riparian buffer; to allow stormwater management facilities in the riparian buffer; to permit a modified landscape plan; and to allow a modification to building setbacks from streets and sidewalks (the "Conditional Use Order"); and

WHEREAS, at its public meeting on August 3, 2022, the East Brandywine Township Planning Commission adopted a motion recommending approval of the Application and Preliminary Plan, subject to compliance with conditions; and

WHEREAS, the Applicant's engineer met with Township officials to discuss possible revisions to the Plan that would eliminate some potential waivers and address other concerns; and

WHEREAS, the Applicant revised the Preliminary Plan to address some of the Township's concerns; and

WHEREAS, the Applicant has requested Board approval of the Application and Preliminary Plan.

NOW THEREFORE, BE IT RESOLVED, by the Board of Supervisors of East Brandywine Township, Chester County, Pennsylvania, as follows:

The Board conditionally approves the Application and Preliminary Plan, subject to full and complete compliance with the following conditions and qualifications (collectively the "Decision"):

CONDITIONS AND QUALIFICATIONS OF APPROVAL

1. The final plan application, the development of the Property and the Project shall comply with all relevant terms and provisions of the Township Zoning Ordinance, Subdivision and Land Development Ordinance (SALDO), the Stormwater Ordinance, the Transportation Impact Fee Ordinance and all other applicable ordinances and regulations, except as otherwise modified and/or waived by the ZHB Decision, the Conditional Use Decision and

by the Board in the final plan decision.

2. Except as provided in Condition 37 herein below, prior to final plan approval, Applicant shall comply with and resolve all comments labeled "Outstanding", "Pending" or "Acknowledged" in the correspondence of Pennoni, Township Engineer, dated October 3, 2022 (the "Pennoni Review"), and all comments and issues that may arise as a result of compliance with the aforesaid comments. Without limiting the foregoing, the Applicant and the stormwater system shall comply with Section 345-305 of the Stormwater Ordinance with regard to runoff volume and quality requirements, except as may be waived or modified by the Board in the final plan decision.

3. Applicant shall comply with and resolve all comments and recommendations in correspondence of Hydraterra Professionals, LLC, East Brandywine Township Municipal Authority Engineer, dated May 19, 2022; revised June 13, 2022, August 5, 2022 and October 5, 2022 (the "Hydraterra Review"), and all comments and issues that may arise as a result of compliance with the aforesaid comments. Without limiting the foregoing, the Applicant shall design, obtain permits for, and install all facilities and obtain all easements necessary to collect and convey raw sewage to the Applecross Treatment plant; and all facilities and easements necessary to return treated effluent to the Property and for drip irrigation land disposal of the treated effluent. Except as set forth in Condition 4 herein below, the land disposal area shall be sized and permitted to dispose of 150% of the gallons per day of treated effluent as approved by the Project Sewer Facilities Planning Module. All design, equipment and construction shall be in accordance with Authority rules, regulations, and specifications and as approved by the Authority Engineer.

4. If approved by the Municipal Authority, the land area and facilities for drip irrigation may be reduced in size to accommodate the Reeceville Road extension referenced in Condition 16 herein below. The land area of the drip irrigation area and the facilities shall be reduced to the minimum extent necessary to accommodate the Reeceville Road extension.

5. All sanitary sewer facilities and easements necessary to maintain, repair and replace the facilities shall be dedicated to the Authority upon completion of construction of the Project. Applicant shall grant an exclusive easement to the Authority for the drip irrigation facilities land area. The drip field area shall be protected during construction. No vehicles or construction equipment shall enter upon the drip area except for vehicles and equipment necessary to design, obtain permits for, and install the drip irrigation facilities.

6. Applicant shall obtain all necessary permits and approvals that are needed from the Chester County Conservation District and the Pennsylvania Department of Environmental Protection for the erosion and sedimentation control plan and stormwater management plan for the Project, including but not limited to an NPDES permit and approval of the post construction stormwater management plan.

7. Prior to final plan approval, Applicant shall provide to the Township an executed and recordable cross-easement agreement between the Applicant and the Applecross Country Club Master Association, Inc. permitting an emergency access connection to Par Lane and Mulligan Road. The agreement shall provide for emergency access and use by emergency access vehicles and personnel to and from the Project via Par Lane and Mulligan Road and the private roads in the Village Towns development to and from Bondsville Road.

Conversely, the agreement shall provide for emergency access and use by emergency access vehicles and personnel to and from the Village Towns development via Par Lane and Mulligan Road and the private roads in the project to and from Horseshoe Pike. The cross easement agreement shall be recorded with the recording of the final plan.

8. Applicant shall form a homeowners' association (HOA) and a prepare and record with the final plan a HOA declaration in accordance with the Uniform Planned Community Act, which shall be satisfactory to the Township in all respects. The declaration shall require the association to maintain, repair and replace all common improvements for the project, including but not limited to roads, trails, landscaping, the riparian corridor, stormwater facilities, and best management practices facilities and structures which are part of the stormwater facilities.

9. The trails internal to the Property shown on the Preliminary Plan shall be constructed by the Applicant as part of the Project. The trails shall be accessible to the general public. An easement shall be granted to the Township for use of the trails.

10. Applicant shall prepare and record with the final plan a riparian corridor management plan which shall be satisfactory to the Township in all respects.

11. The landscape plan shall include a year-round vegetative buffer between the Project and the Wright property, UPI No. 30-5-143, to mitigate the effect of the Project on the historic resource on the Wright property.

12. Applicant shall obtain a highway occupancy permit from PennDOT for the entrance road, Road A, intersecting Horseshoe Pike. The Township shall be included in all submissions to PennDOT. Applicant shall design, obtain permits for, and construct all improvements required by the PennDOT permit. Regardless of whether or not required by PennDOT, the Applicant shall design and construct a left turn lane for northwest-bound Horseshoe Pike traffic entering Road A; and a deceleration lane for south-east bound Horseshoe Pike traffic entering Road A. If determined necessary by the Township, a streetlight shall be installed at the intersection of Road A and Horseshoe Pike. The HOA shall maintain, repair, and replace the streetlight, and pay the cost of electricity for the streetlight.

13. Parallel parking along all private roads in the project shall be prohibited by the HOA declaration. The parking prohibition shall be posted by signs complying with the Pennsylvania Vehicle Code. The parking prohibition shall be enforced by the HOA, and if requested by the Township, the HOA shall authorize the Township Police Department to enforce the parking prohibition and speed restrictions.

14. Access for school buses and proposed school bus stops shall be approved by the Downingtown Area School District and acceptable to the Township in all respects.

15. The internal road system, including Road A, shall be designed and constructed to permit access for emergency vehicles and approved by the Township Fire Marshall and the Chief of the East Brandywine Fire Company.

16. Applicant shall dedicate to the Township in fee a 50-foot right-of-way for the Reeceville Road extension from Horseshoe Pike to the property line adjacent to UPI No. 30-5-1232; as generally depicted on Sheet 22 of the Preliminary Plan. The precise location of the right-of-way shall be determined by the Township during the final plan review. The stormwater management plan design shall include sufficient land area and capacity to manage stormwater runoff resulting from construction of the portion of the proposed Reeceville Road extension located on the Property.

17. Applicant shall construct road A from Horseshoe Pike to the road stub as depicted on Sheet 6 of the Preliminary Plan in accordance with Township public road standards, including a 28-foot wide cartway with vertical curbs. The final design of the road shall be determined by the Township Engineer during the final plan review.

18. Mailboxes shall be located in one or more central areas and include sufficient off-street parking for delivery and pick-up of mail.

19. The HOA declaration and a final plan note shall allocate a maximum impervious coverage limit to each lot. The declaration and note shall also prohibit applications for variances or other relief to the Township Zoning Hearing Board to exceed the allotted impervious coverage limitation or permit construction outside the building and deck envelope required by Condition 20 herein below.

20. The final plan shall depict a building and deck envelope for each lot. No construction of buildings and decks shall be permitted outside the approved building and deck envelope.

21. The landscaping plan for the riparian buffer and the landscape buffer between the Project and the Village Towns development shall be satisfactory to the Township Engineer in all respects. Post installation, the Township Engineer shall inspect the buffer plantings, and the Applicant shall install additional plantings if required by the Township Engineer.

22. Bradford pear and black walnut trees shall not be utilized in the landscape plan. Substitute species shall be approved by the Township Engineer.

23. Pursuant to SALDO Section 350-50.B(3)(b), Applicant shall pay a fee in-lieu-of on-site recreational lands. The amount of the fee shall be determined by the Board during final plan review, including the amount, if any, of any credit to the Applicant for on-site recreational amenities.

24. There shall be a maximum number of 89 residential units on the property. This Decision does not approve any minimum number of residential dwelling units or the location or extent of any improvements, including but not limited to roads, open space, and stormwater management facilities. The number of units may be reduced or the location and extent of improvements may be modified if required by compliance with the conditions of this Preliminary Plan approval.

25. Applicant shall comply with the conditions of approval of the October 6, 2021 Zoning Hearing Board Order.

26. Applicant shall comply with the conditions of approval of the March 3, 2022 Conditional Use Order.
27. Applicant shall obtain all regulatory permits that are necessary to develop the project, including but not limited to highway occupancy permits, NPDES permits, Sewage Planning Module Approval and Water Quality Management Permit.
28. Applicant shall enter into a drainage improvement operations and maintenance agreement if any stormwater facilities are installed in the right-of-way of roads owned by PennDOT. This agreement shall require Applicant and its successors and assigns in title to the property to maintain, repair and replace these stormwater facilities in perpetuity.
29. Prior to recording the final plan, Applicant shall execute a development agreement, a stormwater operations and maintenance agreement, other agreements required by this Decision, a financial security agreement and post financial security in an amount approved by the Township Engineer and in form and substance acceptable to the Township, the Township Engineer, and the Township Solicitor.
30. Prior to the filing of the application for final plan approval, Applicant shall reimburse the Township and the Municipal Authority for all outstanding engineering, administrative, legal, and other review fees charged by Township and Authority consultants associated with the Township's and Authority's review of the Preliminary Plan, attendance at meetings and preparation of this Resolution.
31. Applicant shall construct all roadway improvements and related improvements (e.g., signs, medians, pavement markings) necessary for ingress and egress to and from the project.
32. No signage plans have been reviewed or approved as part of the Application. Any future signs to be installed on the Property shall comply with Township ordinances and obtain approvals and permits.
33. The builder and seller of the proposed residential units shall notify in writing, prior to the execution of an agreement of sale, potential buyers of the responsibilities and restrictions imposed by the HOA declaration and the conditions of this preliminary plan approval and the final plan approval. The builder/seller shall prepare a notification document which shall be submitted to the Township for approval prior to offering any dwelling unit for sale.
34. To the extent that any of these conditions are determined to be invalid, the invalid condition(s) are severable and the invalidity shall not affect the validity of the remaining conditions.
35. This Decision shall not be used as justification by the Applicant for any waiver of any requirement of the SALDO, the Township Stormwater Ordinance or any other regulatory requirement. No waivers or modifications are granted by this Decision. All requested SALDO waivers and modifications shall be considered during the final plan review.

36. The review of the final plan in order to comply with the conditions of this approval may result in additional comments of noncompliance with applicable laws, ordinances, and regulations. The final plan shall comply with such additional comments even though not made conditions of this Decision.

37. Whether or not specific reference is made in any of the conditions of this Decision, all conditions shall be complied with to the satisfaction of the Township prior to final plan approval; or before recordation of the final plan in the case of outside agency permits, the development agreement, financial security agreement and other agreements typically recorded with the final plan.

38. This Decision and the conditions included herein are binding on Applicant, its successors and assigns in ownership of the property, for the benefit of the Township in general and the ultimate users/property owners of the property.

39. This Decision and the conditions hereof shall be accepted in writing by Applicant within fifteen (15) days of the date of this Resolution, failing which the application shall be deemed denied by the Board of Supervisors as failing to comply with the provisions of the Township's Zoning Ordinance, SALDO and Stormwater Ordinance as detailed in the Pennoni Review and the Hydraterra Review, which are attached hereto and incorporated in their entirety into this Resolution Decision by reference. RESOLVED, APPROVED, AND ADOPTED this 6th day of October 2022.

Vice-Chairman Croft made a motion to adopt Resolution 18 of 2022 as summarized by the Solicitor. Chairman Scribner seconded the motion. Supervisor Winters voted Nay. Motion passed 2-1.

Resolution 19 of 2022: Final Approval Brandywine Walk Sub-Division

Per the Solicitor this Resolution was tabled until the October 20th PM Session of the Board of Supervisors. He added an extension was granted to the Township.

Public Comment on Non-Agenda Items

Ms. Sandy Moser provided an update to the Board regarding the planting at the Mill stating the plantings will be done by the 2nd of November. She also informed the Board that they would like to change the name of the Gardens at Bondsville Mill to the Arboretum at Bondsville Mill.

The Board thanked Ms. Moser for the update.

Chairman Scribner informed the Board that he was contacted by a resident of the Hopewell development inquiring where the Township is regarding installation of speed humps in their community. Mr. Reven stated the Township had their traffic engineer complete a traffic study. It was determined there was no speed calming devices needed in this community as the cut through traffic and speed of the traffic warranted it. He added the ultimate solution to the concerns of the residents of Hopewell would be the connector road associated with the Giant food store as well as the improvements to N. Guthriesville Road. He also added that the Board stated they would consider speed humps in the community. Staff did meet with a vender but has not moved forward. Mr.

Reven confirmed the action to be completed. He added staff is to reach out to the Hopewell HOA informing them that the Township will be purchasing removable speed humps. Chief Kocsi stated that placement of the speed humps is important. He also added we were waiting on the HOA to get back to the Township indicating where they are to be placed as they need to make sure the residents are okay with having them in front of their home, they can be noisy when cars go over them. Chief also added they have not received any speeding complaints since the study was completed over a year ago.

Mr. Reven stated his recommendation is to establish a standard for which constitutes a problem and we stand with it. He added because we do not have a standard, we can follow the state standard which indicated an inappropriate amount of cut through traffic and speeding; this complaint does not rise to that level. He added that he works for the Board and if the Board requests him to make a purchase, he will do so. Mr. Reven stated his recommendation is that we politely inform the HOA that it does not rise to the standard that traffic calming is necessary. Chairman Scribner stated he feels we owe an email to the resident and the HOA as they feel there is an issue. Mr. Scribner reiterated the importance of communicating with the HOA and resident. Township Engineer Nate Cline suggested creating an ordinance stating these measures. Mr. Reven confirmed that staff will reach out to the resident and HOA to inform them the Township will be researching a local set of standards when traffic calming is necessary and will inform the HOA that the study showed no traffic calming measures are necessary for their community.

Chairman Scribner informed the Board that Mr. Schillo of 230 Zynn Road contacted him with questions regarding impervious coverage relating to stormwater. He added Mr. Schillo stated when they removed a deck or patio the impervious was not credited back. Mr. Reven stated per our stormwater ordinance, if the coverage was removed where the new item is being placed it would be credited. If the item is in a different area other than where the detached garage is being built, it would not be credited back. Mr. Reven added the stormwater ordinance allows the governing body to do a waiver if what is being proposed meets the spirit of the ordinance. Mr. Reven added his recommendation is that this individual needs to apply to the Board for a waiver. The discussion continued resulting in the Board granting waivers on a case-by-case basis.

Notices

An Executive Session will be held following this meeting to discuss personnel and legal matters.

Adjournment

Vice-Chairman Croft made a motion to adjourn at 9:50 AM. Supervisor Winters seconded the motion, with all members voting Aye. Motion passed 3-0.

Respectfully submitted,

Lisa Taraschi
Township Secretary