BEFORE THE BOARD OF SUPERVISORS
OF EAST LAMPETER TOWNSHIP

In Re:	:	
	:	
THE APPLICATION OF	:	Case # 2024-01
SMOKETOWN ENTERPRISES, LLC	:	
	:	

DECISION

I. FINDINGS OF FACT.

1. The Applicant is Smoketown Enterprises, LLC (the "Applicant").

2. The properties which are the subject of this Application are located on Eastbrook Road (State Route 896) with a Parcel ID #310-15301-0-0000 and 2498 Old Philadelphia Pike (State Route 340) with a Parcel ID #310-41500-0-0000 (hereinafter collectively the "Property"). The Property is located in East Lampeter Township's Village General ("VG") Zoning District according to the Official Map of East Lampeter Township.

3. The Applicant is the owner of the Property.

4. Notice of the hearing on the Application was duly posted and advertised in accordance with the requirements of the Pennsylvania Municipalities Planning Code (the "MPC"), and the Zoning Ordinance for East Lampeter Township (the "Ordinance").

5. The hearing was held on November 18, 2024.

6. East Lampeter Township Board of Supervisors (the "Board") members Corey Meyer, Ethan Demme, Mike Thornton, Roger Rutt, and Edward Gallagher participated in the hearing and decision.

7. J. Dwight Yoder, Esquire of Gibbel, Kraybill & Hess, LLP represented the Applicant at the hearing.

8. David Beiler, a member of the Applicant, and Randy Dautrich, Professional Engineer with Dautrich Engineering, testified on behalf of the Applicant.

9. Ralph Hutchison, Township Manager, represented the Township staff at the hearing and offered the testimony of Scott Hain, Township Engineer.

10. The Applicant requests conditional use approval under Section 375-23455.B.(2) of the Ordinance for a Mixed Use Manufacturing development that includes a manufacturing facility (the "Facility") and five townhouse-style Multi-Family Dwellings ("MFDs") to include a total of 27 or 28 one- and two-bedroom apartment units.

11. Pursuant to Section 375-23455.B.(9), the Applicant is requesting the following modifications from the requirements of the Ordinance:

(1) Permission to exceed the 30,000 square foot gross floor area requirement for a manufacturing space pursuant to Section 375-23450.A.(4);

(2) Adjustment of the common open space requirement for multi-family dwelling units pursuant to Section 327-23490.D.(3);

(3) Permission to deviate from the requirement of a 50-foot yard between end walls for three of the MFDs pursuant to Section 375-23490.E;

(4) Permission to deviate from the requirement that customer and employee parking be located in the back of the Facility pursuant to Section 375-23455.C.(5);

(5) Permission to have outdoor storage for display in front of the Facility pursuant to Section 375-23455.C.(6);

(6) Permission to deviate from minimum and maximum front yard setbacks for the MFD along Eastbrook Road pursuant to Section 375-22150.C.(9);

(7) Permission to deviate from the requirement of a 15-foot wide landscape screen where a property line is adjacent to the Agricultural ("AG") Zoning District pursuant to Section 375-22150.D.(1); and

(8) Permission to expand the timeframe in which to pull permits under Section 375-25080.J. by an additional 12 months.

12. The Applicant offered the following exhibits at the time of the hearing:

(1) An aerial view of the Property;

(2) Photographs depicting the Applicant's current manufacturing facility, showroom, and manufacturing processes;

(3) Two alternative proposed site plans: one providing for no right turn (page 1), and the second providing for full access (page 2);

(4) Photographs showing examples of fencing product sold by Applicant's businesses;

(5) Floorplans for the Facility depicting manufacturing, warehouse, showroom, and office spaces;

(6) An architectural rendering of the exterior of the Facility;

(7) Architectural renderings of the exterior of the two-bedroom MFDs;

(8) Architectural renderings of the exterior of the one-bedroom MFDs;

(9) A site plan depicting proposed landscaping; and

(10) A list of the Applicant's requested modifications.

13. The Property contains approximately 8.98 acres and consists primarily of unimproved agricultural land.

14. The Applicant proposes to operate two businesses on the Property that would share the Facility: Millcreek Fence and Decks LLC ("Millcreek") and Keystone Vinyl Technology LLC ("Keystone").

15. Millcreek and Keystone currently operate together at 2595 Old Philadelphia Pike in East Lampeter Township, where they have operated for the past 13 years, and which they have now outgrown.

16. Keystone fabricates and assembles vinyl fence materials and railings which Millcreek then uses for its fencing design and installation business. Keystone also sells fencing materials to other local and regional fencing companies.

17. As of the date of the hearing, Keystone and Millcreek employ 23 employees combined, with 21 working for Millcreek and two 2 working for Keystone.

18. The Applicant anticipates that there could be up to 30-35 total employees in the future.

19. Keystone and Millcreek operate from 6:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 p.m. to 3:00 p.m. on Saturday.

20. There will be 36 parking spaces for employees and customers.

21. Several employees do not drive to work and thus do not require parking spaces, as they are taxied to work.

22. The Applicant estimates that there are typically no more than a dozen retail customers on the premises per week, as most of the business involves supplying product to contractors.

23. The Applicant anticipates between 5-6 deliveries per week with materials brought into the Facility on tractor trailers and 10-12 trips per day with finished product leaving the Facility on pickup trucks or flatbed trailers.

24. The Facility will be accessible via a private driveway off Eastbrook Road (Route 896).

25. Subsequent to the filing of its initial Application, the Applicant supplemented its Application to include two alternative site plans. The first plan provides for no right turn out of the driveway of the Property onto Easterbrook Road (hereinafter "Plan 1"), and the second provides for a full-access driveway (hereinafter "Plan 2"). Applicant requested that the Board approve both plans, as it is not yet clear which approach the Pennsylvania Department of Transportation will approve.

26. The proposed Facility is the same under either Plan and will consist of two structures: a main manufacturing building consisting of 24,842 square feet, and a smaller pole barn consisting of 7,420 square feet, for a combined square footage of 32,262 square feet for the Facility.

27. The main manufacturing building will include a showroom, offices, manufacturing space, and warehouse space on the first floor and a conference room on the second floor. Keystone will occupy the left side of the office space, and Millcreek will occupy the right side of the office space.

28. The Facility will be primarily used for manufacturing and will comply with all commercial building code requirements.

29. No hazardous materials, chemicals, or substances will be stored at the Facility.

30. Millcreek's retail sales of products manufactured by Keystone will take place in the proposed 840 square foot showroom.

31. The Facility will have a paved area to the West of the main manufacturing building to be used for loading and unloading materials and finished product, parking company vehicles and equipment, and storing materials.

32. There will be approximately 2.4 acres West of the paved area and Facility for which the Applicant currently has no plan.

33. A 6-foot black chain link fence will enclose the paved area. A 6-foot clay color vinyl privacy fence will surround the portions of the Facility fronting adjoining property owners as well as the MFDs. The paved area will be gated to prevent unwanted traffic.

34. Along the Southern portion of the Property adjacent to the AG Zoning District, the Applicant will install the above-mentioned 6-foot black chain link fence in lieu of the required 15-foot landscaping buffer screen.

35. Behind the Facility, there will be three (3) dumpsters: one for aluminum recycling, one for vinyl recycling, and one for trash.

36. The Facility will not generate manufacturing noise that will be audible from outside the Facility, and no intercom system is proposed.

37. The Facility will not impact neighboring properties or be noticeable beyond property lines.

38. The Applicant testified that materials will sometimes be stored outside on the paved area to the West of the Facility, including product ready to be sent to job sites, customer pickups, and deliveries that are not able to immediately be brought inside.

39. The Applicant will install a permanent product display in front of the Facility just outside of the front door of the main manufacturing building which will include installation of samples of various fencing types.

40. As an additional principal use, the Applicant will construct five MFDs on the property consisting of either 27 apartments (Plan 1) or 28 apartments (Plan 2).

(a) Both Plans propose three MFDs that would front Old Philadelphia Pike, with 2 MFDs to include 4 two-bedroom units, and 1 MFD to include 8 one-bedroom units.

(b) Both Plans also propose an MFD fronting Eastbrook Road, with 6 one-bedroom units under Plan 1, and 8 one-bedroom units under Plan 2. Directly across from the MFD fronting Eastbrook Road will be a final MFD, to include either 5 two-bedroom units under Plan 1, or eight 4 one-bedroom units under Plan 2.

41. The MFDs fronting Old Philadelphia Pike would have only a separation distance from end wall to end wall of 10 feet to accommodate as many units as possible.

42. The MFDs fronting Eastbrook Road would exceed the maximum setback of 25 feet due to interference with the driveway and an existing stormwater easement.

43. Under Plan 1, there will be a total of 40 parking spaces dedicated to the MFDs, and under Plan 2, there will be a total of 42 parking spaces dedicated to the MFDs.

44. Plan 1 proposes a total of 14,932 square feet of open space, and Plan 2 proposes a total of 15,468 square feet of open space.

45. The Applicant, through a property manager, would maintain the proposed open space and anticipates installation of a gazebo and picnic tables under Plan 2. The Applicant does not plan to deed the open space with restrictions to preclude future development thereof.

46. The MFDs will be serviced by public water and sewer.

47. The MFDs are designed to resemble townhomes.

48. The architectural features of the proposed MFDs are proposed to be consistent with the overall architectural design of the Bird-in-Hand Zoning District.

II. CONCLUSIONS OF LAW.

1. The MPC provides that "[w]here the governing body . . . has stated conditional uses to be granted or denied by the governing body pursuant to express standards and criteria, the governing body shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria." Section 913.2(a) of the MPC, 53 P.S. § 10913.2(a).

2. The "existence of a conditional use provision in a zoning ordinance indicates legislative acceptance that the use is consistent with the zoning plan[.]" *Worthington v. Mount Pleasant Township*, 212 A.3d 582, 584 n.1 (Pa. Cmwlth. 2019) (citation omitted).

3. The law in Pennsylvania is well-established that an applicant seeking conditional use approval bears the burden of presenting evidence that the proposal complies with all of the objective

requirements contained in the zoning ordinance. *See Appeal of Richboro CD Partners, L.P.*, 89 A.3d 742, 745 (Pa. Cmwlth. 2014); *In re Application for Conditional Use Approval of Saunders*, 636 A.2d 1308, 1311 (Pa. Cmwlth. 1994).

4. When an applicant has demonstrated that it has satisfied the objective standards and criteria of the zoning ordinance, a presumption arises that the use is consistent with the health, safety, and welfare of the community. *Richboro CD Partners*, 89 A.3d at 745. An application for conditional use approval may be denied only where there exists "a high degree of probability that the proposed use will substantially affect the health and safety of the community" and "would create an adverse impact **not normally generated by the type of use proposed**." *Saunders*, 636 A.2d at 1311 (emphasis in original).

5. Section 375-23455 of the East Lampeter Township Zoning Ordinance permits "[a] mixed use manufacturing development . . . by conditional use within the VG Zoning District with access to any public road where the number of dwelling units proposed is less than seven (7) dwelling units per acre of land in the proposed development (in addition to the proposed Manufacturing use)." Ordinance § 375-23455.B.(2).

6. In addition, the manufacturing component of the proposed development must comply with all standard and requirements for manufacturing uses under Section 23450 of the Zoning Ordinance, and all MFDs must separately with the standards and requirements for MFDs set forth in section 23490 of the Zoning Ordinance. Ordinance § 375-23455.C.(1)-(2).

7. Further, "the Board of Supervisors may by conditional use modify the design requirement for a mixed use manufacturing option (including the design requirements for the underlying uses) if it is demonstrated to the satisfaction of the Board that the proposed modifications will not undermine the intent and purpose of the VG [Zoning] District." Ordinance § 375.23455.C.(9).

8. Based upon the credible evidence of the Applicant's witnesses, the Board concludes that the Applicant's proposed mixed use manufacturing development satisfies the requirements of Sections 375-23455, 375-23450, and 375-23490, with the following exceptions for which the Applicant seeks waivers:

1. The main manufacturing building will have 32,262 square feet thereby exceeding the 30,000 square foot gross floor area requirement for a manufacturing space set forth in Section 375-23450.A.(4);

2. Modification of the dimensional requirements for the open space and buffer yard due to the mixed-use open space requirements and the desire to provide as many dwelling units as possible is needed. Additionally, the common open space will not be deeded to preclude future residential development per Section 327-23490.D.(3), as future development of the proposed open space is not practicable, and the open space will remain under the ownership of the Applicant;

3. There will not be 50-foot yards between end walls for the three MFDs fronting Old Philadelphia Pike contrary to Section 375-23490.E;

4. Parking will not be located in the back of the Facility contrary to Section 375-23455.C.(5);

5. Outdoor storage for display will be in front of the Facility contrary to Section 375-23455.C.(6);

6. The MFDs fronting Eastbrook Road will not comply with the maximum front yard setbacks contrary to Section 375-22150.C.(9);

7. There will be a 6-foot chain link fence in lieu of a 15-foot landscape buffer screening the lot line on the Southern end of the Property adjacent to the AG Zoning District contrary to Section 375-22150.D.(1); and

8. The Applicant requests an additional twelve (12) months in which to obtain permits pursuant to Section 375-25080.J.

9. The Board concludes and is satisfied that above-described proposed modifications will not undermine the intent and purpose of the VG Zoning District and further concludes that the proposed development is consistent with the health, safety, and welfare of Township residents.

III. DECISION.

Based upon the foregoing Findings of Fact and Conclusions of Law, the East Lampeter Township Board of Supervisors grants the Applicant's request for conditional use approval under Section 375.23455.B.(2), along with the Applicant's requested modifications for a mixed manufacturing use subject to the following conditions:

(1) Construction of the MFDs must be completed within two (2) years of the issuance of the Certificate of Occupancy for the Facility;

(2) Prior to the installation of the privacy fence and landscaping buffer, the Applicant must consult with adjoining residential property owners to ascertain their preferences with respect to the location for the fences and landscaping buffers along the edge of the residential properties;

(3) The Applicant must ensure that the amount of common open space meets or exceeds the amount reflected Plan 2 (providing for a full access driveway); and

(4) Any proposed signage for the Property shall comply with the applicable regulations for the VG Zoning District.

Decision made this 18th day of November, 2024, by a vote of 5-0.

BY THE BOARD

Corey Meyer, Chairman

Date: 12/16/24

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The undersigned certifies that a copy of this Decision has been served, personally or by First Class Mail, postage prepaid, upon the Applicant, Smoketown Enterprises, LLC with an address of 452 Mt. Sidney Road, Lancaster, PA 17602, and its counsel, J. Dwight Yoder, Esquire, Gibbel, Kraybill & Hess, LLP, 2933 Lititz Pike, Lititz, Pennsylvania 17543.

Date: 12/17/24

Ralph M. Hutchison, Secretary
East Lampeter Township