



**UPPER UWCHLAN TOWNSHIP  
PLANNING COMMISSION  
AGENDA**

**December 12, 2019  
7:00 PM**

**LOCATION:** Temporary Township Administration Office  
415 Eagleview Boulevard, Suite 116  
Exton, PA 19341

Packet Page #

- I. Call To Order
- II. Windsor Baptist Church – Architectural Elevations 2  
Presentation and discussion of revised architectural elevations  
for the existing building and proposed addition.
- III. Alternative Energy Systems Ordinance Amendments 7  
Review and discuss the draft ordinance amendments. Make a  
recommendation to the Board of Supervisors for their consideration  
and potential adoption at their December 16, 2019 Meeting.
- IV. Approval of Minutes: November 14, 2019 Work Session, Meeting 23
- V. Open Session
- VI. Next Meeting Date: January 9, 2020  
Location: 415 Eagleview Boulevard, Suite 116, Exton, PA 19341
- VII. Adjournment













## Chapter 77. Energy Systems, Alternative

### § 77-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

**INDIVIDUAL NET METERING-** When the property upon which an alternative energy system or systems is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company and credited to the property owner.

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**COMMUNITY NET METERING-** The net metering credits from an alternative energy system or systems are distributed among two or more electric meters on different lots.

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**VIRTUAL NET METERING-** The net metering credits from an alternative energy system or systems are derived from a different location or lot from the meter or meters being credited.

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### § 77-42. Systems permitted; exempt systems.

Accessory structures and systems that provide alternative energy sources ("systems") shall be permitted, but only as follows:

- A. Applications for alternative energy system permits shall include information demonstrating compliance with the provisions in this chapter.
- B. Alternative energy systems generating less than 100 watts' equivalent power, or less than four square feet in size, in aggregate, and not connected to the commercial power system, are exempt from the provisions of this chapter.
- C. Alternative energy systems that solely provide temporary backup or emergency power in the event of a utility power outage are exempt from the provisions of this chapter.

### § 77-32. Permitted and prohibited district uses.

Solar energy systems, ~~and~~ wind energy systems and geothermal energy systems shall be an allowed accessory use~~s~~ in all Districts, except where specifically prohibited.

- A. Solar and wind energy systems are specifically prohibited in:

- (1) All areas designated as public open space, whether general public or homeowner association, or as specified in the Comprehensive Plan.
- (2) Wastewater reclamation areas.
- (3) Greenways, as designated in the Comprehensive Plan.
- (4) Riparian buffer areas.

B. Wind energy systems are specifically prohibited in:

- (1) C-1 Village Districts, designated historical districts, and executed overlay areas.
- (2) Wind energy systems shall be allowed in Commercial, Limited Industrial, R-1, R-2, R-3 and R-4 Districts as an accessory use following conditional use approval and subject to the criteria in §77-6, Wind energy systems, of this chapter.

**Commented [KC1]:** I'm not sure what executed overlay areas refers to.

C. Geothermal Systems are specifically prohibited in:

- (1) C-1 Village District, designated historical districts, and executed overlay areas.

**Commented [KC2]:** I'm not sure what executed overlay areas refers to.

§ 77-34. **Compliance with other codes and standards required.**

- A. All systems including modifications to existing systems must obtain are subject to permits under the Township Building Code and Pennsylvania Uniform Construction Code in effect at the time of application and construction.

~~B. The system shall provide power for principal use on the property whereon the system is to be located. It shall not be for the principal use of generation of power for commercial purposes.~~

- ~~B.C.~~ The design of the alternative energy system shall conform to applicable industry standards, including those of the American National Standards Institute, and shall have certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories.

- ~~C.D.~~ All electrical components of the system shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards, referenced in the Pennsylvania Uniform Construction Code.



§ 77-54. General provisions.

A. Alternative energy systems shall provide power for the principal use on the property whereon the system is located and limited by designed to 125% of the historical peak power usage of the property, or 50 kWe, whichever is less. Alternative energy systems shall not be for the principal use of generation of power for commercial purposes.

B. Individual net metering(interconnection with utility grid).

(1) The owner of the alternative energy system shall provide the Township with written confirmation that the utility has been informed of the intent to install an interconnected electrical generation system and approves of such connection.

~~(4)~~(2) Periodic inspections of interconnections may be performed by the Township after providing adequate written notice to the property owner and owner of the system if different from the property owner. The Township shall provide a copy of the inspection report to the property owner upon receipt. If the inspection is not performed by the Township, the report shall be provided to the Township within 30 days of the inspection.

(3) The alternative energy system shall have an automatic cut off from the utility interconnection in the event of utility power outage.

(4) The alternative energy system shall have manual cut off provisions accessible by emergency responders.

C. Alternative energy systems for Community Net Metering and Virtual Net Metering shall be prohibited.

~~DA-~~ Systems may be installed in the side yard or rear yard portions ~~on~~ the property.

~~EB-~~ ~~Systems shall be a nonobtrusive, in a nonreflective color, use reduced or antiglare coatings, and otherwise constructed in such a manner as to be sympathetic to neighboring properties and adjacent public or private streets.~~

~~C-~~ Systems shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

~~FD-~~ Systems shall not display advertising, except for reasonable identification of the system manufacturer or owner ~~and not readable from any public road.~~

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- ~~GE-~~ On-site transmission and power lines between the system and point of use, to the maximum extent practicable, shall be placed underground, or suitably armored.
- ~~HF-~~ All ground-mounted or ground-accessible electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- ~~IG.~~ Any substantial upgrade, modification or structural change that increases the size or relocates an existing system must comply with this ~~chapter~~~~section~~.
- ~~J.~~ All mechanical equipment and components (appurtenances) associated with and necessary for the safe operation of the alternative energy system shall comply with the setbacks for the zoning district in which the system is installed.

§ 77-~~56~~. Solar energy systems.

- A. Solar access easements. Solar energy systems shall be located to ensure adequate solar access without reliance on contiguous or adjacent properties.
- (1) Where applicant desires to ensure that solar access to a solar energy system shall not be obstructed over time by permissible uses or activities on any contiguous or adjacent properties (i.e. by planting or growth of vegetation new construction etc.) it shall be the responsibility of the property owner and system owner to obtain appropriate solar access easements from the neighboring property owners and to notify the Township upon the recording of any such easement.
- (2) All solar access easements shall be recorded in the Office of the Chester County Recorder of Deeds prior to application of permits.
- B. Systems shall use reduced or antiglare coatings
- C. ~~A.~~ Glare from solar arrays shall not impinge on any road or public motorway, or otherwise create a nuisance situation. If glare creates a safety hazard or a nuisance situation, the Township may at its discretion require the system owner or the property owner to take appropriate mitigation measures at their own expense or to require the removal of the system or portion thereof generating the hazard or nuisance..
- ~~DB-~~ Rooftop solar energy systems.
- (1) To minimize visual impact, rooftop arrays shall be placed on the side of the roof away from any road.

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~~(2)~~ Rooftop arrays shall not be higher than the peak of the roof, or higher than 15 inches above the roof surface at any point.

~~EG.~~ Ground-mounted systems.

~~(1)~~ Ground-mounted solar arrays shall be placed in side or rear yards only.

~~(21)~~ The maximum height of a ground mounted solar array shall be 15 feet to its highest point, and all portions of the solar array shall be within the side and rear yard building setbacks applicable to accessory structures but no less than 15 feet from the property line.

~~(32)~~ The area of the array shall be calculated and added to the maximum building area coverage that is permitted on the subject property.

~~(43)~~ Adequate drainage and infiltration of rainwater shall be provided for, to eliminate additional runoff from the property.

~~(45)~~ Ground-mounted assemblies must be screened in accordance with §200-77 of the Township Zoning Ordinance, but not to an extent which precludes adequate and efficient operations.

~~(56)~~ Access to the ground-mounted system shall be controlled in accordance with §200-88, Fences and walls.

~~(67)~~ Solar arrays shall not exceed 20% coverage on otherwise unoccupied property area.

**§ 77-~~76~~. Wind energy systems.**

- A. There shall be only one wind energy system per lot.
- B. Maximum height of the wind energy system shall be the same as the maximum height permitted by right in the district and shall be measured with the blade in maximum vertical position from the tip of the blade to the ground.
- C. All wind energy systems shall be mounted on a single pole system with no guide wires or other supports except its foundation.
- D. The wind energy system shall not be climbable up to 15 feet above ground surface.
- E. All wind energy systems shall be designed and installed to meet maximum wind speeds of Category 1 hurricanes.
- F. The wind energy systems shall be placed within the side and rear yard setbacks as applicable to accessory structures or at least a distance of 1 1/2

times its height away from the property lines and any occupied structure, whichever is greater.

- G. Wind energy systems shall be set back from the nearest occupied building located on an adjacent landowner's property a distance of not less than three times the height, as measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
- H. All wind energy systems shall be set back from the nearest public road a distance of not less than 1 1/2 times the height, as measured from the right-of-way line of the nearest public road to the center of the wind energy system base.
- I. No windmill blade in any position shall be closer than 12 feet to the ground.
- J. Sound levels generated by the wind energy system shall comply with sound level limits specified in The Code of Upper Uwchlan Township, §200-82, at the property line. Methods for measuring and reporting acoustic emissions from the wind energy system shall be equal to or exceed the minimum standards for precision described in "AWEA Small Wind Turbine Performance and Safety Standard (AWEA Standard 9.1 - 2009)<sup>[1]</sup> The American Wind Energy Association."
- K. All wind energy systems shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.
- L. The wind energy system owner shall make reasonable efforts to minimize shadow flicker to any occupied building on an adjacent landowner's property.
- M. Wind energy systems shall have a maximum nameplate capacity of 20 kilowatts.

§ 77-87. **Geothermal systems.**

- A. All geothermal installations shall be in accordance with the Township Stormwater Ordinance provisions.
- B. Geothermal systems shall conform to the following additional standards: International Ground Surface Heat Pump Association (IGSHPA), Air-Conditioning and Refrigeration Institute (ARI) and the American Society of Testing and Materials (ASTM).

C. Geothermal system shall be closed loop systems

D. Geothermal systems shall utilize fluids conforming to the standards established by the Pennsylvania Department of Environmental Protection. A permanent sign must be attached to the system specifying that only approved heat transfer fluids may be used.

EB- In-ground bed/tank systems require a Township grading permit.

EC- All liquid slurry products of well drilling shall be properly drained so any water leaving the site or entering the Township stormwater system, waterway or wetlands will be absent of solids/particulates.

GD- No waste or overflow from the system shall be permitted to be discharged to the Township sanitary sewer system.

HE- No geothermal system shall degrade the quality or performance of well or septic systems or water infiltration areas.

§ 77-98. Decommissioning of systems.

A. The alternative energy system owner shall, at its sole expense, complete decommissioning of the system within 12 months after the end of the useful life of the system, or after 12 months of nonuse, or as directed by the Township in writing for violations of this chapter after at least 30-days notice and an opportunity to cure has been provided. The system will presume to be at the end of its useful life, or nonuse, if no electricity, heat or cooling is generated for a continuous period of 12 months.

(1) Decommissioning of a geothermal system shall include purging the system of the working fluid and disposing of the fluid in accordance with guidelines issued by the Pennsylvania Department of Environmental Protection.

(2) The geothermal in-ground fluid system and boreholes shall be backfilled with bentonite clay or equivalent material.

A. Except for geothermal systems, the alternative energy system owner shall, at its expense, complete decommissioning of the system within 12 months after the end of the useful life of the system, or after 12 months of nonuse. The system will presume to be at the end of its useful life, or nonuse, if no electricity is generated for a continuous period of 12 months.

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- B. Decommissioning shall include removal of equipment, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities including restoration of primary and accessory structures utilized by the alternative energy systems to safe and usable condition.
- C. Disturbed earth shall be graded and reseeded, unless the landowner requests, in writing, that the access roads or other land surface areas not be restored.
- D. If the system owner fails to complete decommissioning within the periods prescribed above, Upper Uwchlan Township may, at its discretion and with notice provided to the owner, take such measures as necessary to complete decommissioning and receive compensation, or place a lien upon the property, of costs for the decommissioning from the system owner.

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§ 77-9. Exceptions.

~~Exceptions to these requirements may be considered through the conditional use process.~~



**UPPER UWCHLAN TOWNSHIP**  
**CHESTER COUNTY, PENNSYLVANIA**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 77 OF THE UPPER UWCHLAN TOWNSHIP CODE, TITLED, "ENERGY SYSTEMS, ALTERNATIVE" TO ADOPT AMENDED REGULATIONS FOR ALTERNATIVE ENERGY SYSTEMS WHICH ARE ALLOWED AS ACCESSORY USES IN ALL ZONING DISTRICTS SUBJECT TO SPECIFIC RESTRICTIONS SET FORTH IN THE NEW CHAPTER 77.**

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Upper Uwchlan Township, as follows:

**SECTION 1.** Chapter 77 of the Upper Uwchlan Township Code, titled, "Energy Systems, Alternative" shall be amended in its entirety to provide as follows:

**"CHAPTER 77  
ENERGY SYSTEMS, ALTERNATIVE**

**§ 77-1. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

**INDIVIDUAL NET METERING-** When the property upon which an alternative energy system or systems is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company and credited to the property owner.

**COMMUNITY NET METERING-** The net metering credits from an alternative energy system or systems are distributed among two or more electric meters on different lots.

**VIRTUAL NET METERING-** The net metering credits from an alternative energy system or systems are derived from a different location or lot from the meter or meters being credited.

**§ 77-2. Systems permitted; exempt systems.**

Accessory structures and systems that provide alternative energy sources ("systems") shall be permitted, but only as follows:

- A. Applications for alternative energy system permits shall include information demonstrating compliance with the provisions in this chapter.
- B. Alternative energy systems generating less than 100 watts' equivalent power, or less than four square feet in size, in aggregate, and not connected to the commercial power system, are exempt from the provisions of this chapter.
- C. Alternative energy systems that solely provide temporary backup or emergency power in the event of a utility power outage are exempt from the provisions of this chapter.

**§ 77-3. Permitted and prohibited district uses.**

Solar energy systems, wind energy systems and geothermal energy systems shall be an allowed accessory use in all Districts, except where specifically prohibited.

- A. Solar and wind energy systems are specifically prohibited in:
  - (1) All areas designated as public open space, whether general public or homeowner association, or as specified in the Comprehensive Plan.
  - (2) Wastewater reclamation areas.
  - (3) Greenways, as designated in the Comprehensive Plan.
  - (4) Riparian buffer areas.
- B. Wind energy systems are specifically prohibited in:
  - (1) C-1 Village District, designated historical districts, and executed overlay areas.
  - (2) Wind energy systems shall be allowed in Commercial, Limited Industrial, R-1, R-2, R-3 and R-4 Districts as an accessory use following conditional use approval and subject to the criteria in §77-6, Wind energy systems, of this chapter.
- C. Geothermal Systems are specifically prohibited in:
  - (1) C-1 Village District, designated historical districts, and executed overlay areas.

**§ 77-4. Compliance with other codes and standards required.**

- A. All systems including modifications to existing systems must obtain permits under the Township Building Code and Pennsylvania Uniform Construction Code in effect at the time of application and construction.
- B. The design of the alternative energy system shall conform to applicable industry standards, including those of the American National Standards Institute, and shall have certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories.
- C. All electrical components of the system shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards, referenced in the Pennsylvania Uniform Construction Code.

**§ 77-5. General provisions.**

- A. Alternative energy systems shall provide power for the principal use on the property whereon the system is located and limited by designed to 125% of the historical peak power usage of the property, or 50 kWe, whichever is less. Alternative energy systems shall not be for the principal use of generation of power for commercial purposes.
- B. Individual net metering (interconnection with utility grid).
  - (1) The owner of the alternative energy system shall provide the Township with written confirmation that the utility has been informed of the intent to install an interconnected electrical generation system and approves of such connection.
  - (2) Periodic inspections of interconnections may be performed by the Township or by the utility after providing adequate written notice to the property owner and owner of the system if different from the property owner. The Township shall provide a copy of the inspection report to the property owner upon receipt. If the inspection is not performed by the Township, the report shall be provided to the Township within 30 days of the inspection.
  - (3) The alternative energy system shall have an automatic cut off from the utility interconnection in the event of utility power outage.
  - (4) The alternative energy system shall have manual cut off provisions accessible by emergency responders.
- C. Alternative energy systems for Community Net Metering and Virtual Net Metering shall be prohibited.

- D. Systems may be installed in the side yard or rear yard on the property as defined in the Zoning Ordinance, Chapter 200 of the Upper Uwchlan Code.
- E. Systems shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
- F. Systems shall not display advertising, except for reasonable identification of the system manufacturer or owner.
- G. On-site transmission and power lines between the system and point of use, to the maximum extent practicable, shall be placed underground, or suitably armored.
- H. All ground-mounted or ground-accessible electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- I. Any substantial upgrade, modification or structural change that increases the size or relocates an existing system must comply with this chapter.
- J. All mechanical equipment and components (appurtenances) associated with and necessary for the safe operation of the alternative energy system shall comply with the setbacks for the zoning district in which the system is installed.

#### **§ 77-6. Solar energy systems.**

- A. Solar access easements. Solar energy systems shall be located to ensure adequate solar access without reliance on contiguous or adjacent properties.
  - (1) Where applicant desires to ensure that solar access to a solar energy system shall not be obstructed over time by permissible uses or activities on any contiguous or adjacent properties (i.e. by planting or growth of vegetation, new construction, etc.) it shall be the responsibility of the property owner and system owner to obtain appropriate solar access easements from the neighboring property owners and to notify the Township upon the recording of any such easement.
  - (2) All solar access easements shall be recorded in the Office of the Chester County Recorder of Deeds prior to application of permits.
- B. Systems shall use reduced or antiglare coatings
- C. Glare from solar arrays shall not impinge on any road or public motorway, or otherwise create a nuisance situation. If glare creates a safety hazard or



a nuisance situation, the Township may at its discretion require the system owner or the property owner to take appropriate mitigation measures at their own expense or to require the removal of the system or portion thereof generating the hazard or nuisance.

D. Rooftop solar energy systems.

- (1) Rooftop arrays shall not be higher than the peak of the roof, or higher than 15 inches above the roof surface at any point.

E. Ground-mounted systems.

- (1) The maximum height of a ground mounted solar array shall be 15 feet to its highest point, and all portions of the solar array shall be within the side and rear yard building setbacks applicable to accessory structures but no less than 15 feet from the property line.
- (2) The area of the array shall be calculated and added to the maximum building area coverage that is permitted on the subject property.
- (3) Adequate drainage and infiltration of rainwater shall be provided for, to eliminate additional runoff from the property.
- (4) Ground-mounted assemblies must be screened in accordance with §200-77 of the Township Zoning Ordinance, but not to an extent which precludes adequate and efficient operations.
- (5) Access to the ground-mounted system shall be controlled in accordance with §200-88, Fences and walls.
- (6) Solar arrays shall not exceed 20% coverage on otherwise unoccupied property area.

**§ 77-7. Wind energy systems.**

- A. There shall be only one wind energy system per lot.
- B. Maximum height of the wind energy system shall be the same as the maximum height permitted by right in the zoning district where the system is located and shall be measured with the blade in maximum vertical position from the tip of the blade to the ground.
- C. All wind energy systems shall be mounted on a single pole system with no guide wires or other supports except its foundation.
- D. The wind energy system shall not be climbable up to 15 feet above ground surface.

- E. All wind energy systems shall be designed and installed to meet maximum wind speeds of Category 1 hurricanes.
- F. The wind energy systems shall be placed within the side and rear yard setbacks as applicable to accessory structures or at least a distance of 1 1/2 times its height away from the property lines and any occupied structure, whichever is greater.
- G. Wind energy systems shall be set back from the nearest occupied building located on an adjacent landowner's property a distance of not less than three times the height, as measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
- H. All wind energy systems shall be set back from the nearest public road a distance of not less than 1 1/2 times the height, as measured from the right-of-way line of the nearest public road to the center of the wind energy system base.
- I. No windmill blade in any position shall be closer than 12 feet to the ground.
- J. Sound levels generated by the wind energy system shall comply with sound level limits specified in The Code of Upper Uwchlan Township, §200-82, at the property line. Methods for measuring and reporting acoustic emissions from the wind energy system shall be equal to or exceed the minimum standards for precision described in "AWEA Small Wind Turbine Performance and Safety Standard (AWEA Standard 9.1 - 2009)"<sup>[1]</sup> The American Wind Energy Association."
- K. All wind energy systems shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.
- L. The wind energy system owner shall make reasonable efforts to minimize shadow flicker to any occupied building on an adjacent landowner's property.
- M. Wind energy systems shall have a maximum nameplate capacity of 20 kilowatts.

#### **§ 77-8. Geothermal systems.**

- A. All geothermal installations shall be in accordance with the Township Stormwater Ordinance provisions.

- B. Geothermal systems shall conform to the following additional standards: International Ground Surface Heat Pump Association (IGSHPA), Air-Conditioning and Refrigeration Institute (ARI) and the American Society of Testing and Materials (ASTM).
- C. Geothermal systems shall be closed loop systems.
- D. Geothermal systems shall utilize fluids conforming to the standards established by the Pennsylvania Department of Environmental Protection. A permanent sign must be attached to the system specifying that only approved heat transfer fluids may be used.
- E. In-ground bed/tank systems require a Township grading permit.
- F. All liquid slurry products of well drilling shall be properly drained so any water leaving the site or entering the Township stormwater system, waterway or wetlands will be absent of solids/particulates.
- G. No waste or overflow from the system shall be permitted to be discharged to the Township sanitary sewer system.
- H. No geothermal system shall degrade the quality or performance of well or septic systems or water infiltration areas.

#### **§ 77-9. Decommissioning of systems.**

- A. The alternative energy system owner shall, at its sole expense, complete decommissioning of the system within 12 months after the end of the useful life of the system, or after 12 months of nonuse, or as directed by the Township in writing for violations of this chapter after at least 30-days notice and an opportunity to cure has been provided. The system will presume to be at the end of its useful life, or nonuse, if no electricity, heat or cooling is generated for a continuous period of 12 months.
  - (1) Decommissioning of a geothermal system shall include purging the system of the working fluid and disposing of the fluid in accordance with guidelines issued by the Pennsylvania Department of Environmental Protection.
  - (2) The geothermal in-ground fluid system and boreholes shall be backfilled with bentonite clay or equivalent material.
- B. Decommissioning shall include removal of equipment, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities, including restoration of primary and accessory

structures utilized by the alternative energy systems to safe and usable condition.

- C. Disturbed earth shall be graded and reseeded, unless the landowner requests, in writing, that the access roads or other land surface areas not be restored.
- D. If the system owner fails to complete decommissioning within the periods prescribed above, Upper Uwchlan Township may, at its discretion and with notice provided to the owner, take such measures as necessary to complete decommissioning and receive compensation, or place a lien upon the property, of costs for the decommissioning from the system owner."

**SECTION 2. Severability.** If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**SECTION 3. Repealer.** All ordinances or parts of ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

**SECTION 4. Effective Date.** This Ordinance shall become effective in five days from the date of adoption.

**ENACTED AND ORDAINED** this \_\_\_\_ day of \_\_\_\_\_, 2019.

ATTEST:

**UPPER UWCHLAN TOWNSHIP  
BOARD OF SUPERVISORS**

\_\_\_\_\_  
Gwen A. Jonik, Township Secretary

\_\_\_\_\_  
Guy A. Donatelli, Chair

\_\_\_\_\_  
Sandra M. D'Amico, Vice-Chair

\_\_\_\_\_  
Jamie W. Goncharoff, Member



## UPPER UWCHLAN TOWNSHIP

Planning Commission Meeting

November 14, 2019

6:00 p.m. Work Session

7:00 p.m. Meeting

Minutes

**DRAFT**

LOCATION: Temporary Township Administration Office  
415 Eagleview Boulevard, Suite 116, Exton PA 19341

### In Attendance:

Bob Schoenberger, Sally Winterton (7:20), Joe Stoyack, Jim Dewees, Chad Adams, Jeff Smith, Mary Lou Lowrie – Gilmore & Associates (7:00), Gwen Jonik – Planning Commission Secretary

Invited Guest: John Theilacker, Brandywine Conservancy

### 6:00 Work Session

Bob Schoenberger called the Work Session to order at 6:12 p.m.

Adaptive Reuse of Historic Structures, Residential in Commercial District amendments.

John Theilacker presented Brandywine's assessment for an ordinance amendment that would prohibit residential uses in all commercial districts unless it's part of a mixed-use development, as requested during discussions of the adaptive reuse of historic structures ordinance. Within the Village Commercial (C-1) District, there are currently 83 residential parcels, some of which include apartments or townhouses; within the Limited Commercial (C-2) there are 8 residential parcels; within the Highway Commercial (C-3) there are 5 residential parcels. There are only 9 commercial parcels within the commercial districts.

Proposed ordinance amendments to commercial district sections would be to add the definition of "mixed-use dwelling", where the commercial use must be in place before any residential use would be considered; within commercial district Use Regulations, delete multiple-family dwelling language and include mixed-use dwelling. Discussion included restricting residential in the Limited Industrial (LI) and Planned Industrial/Office (PI) Districts. If there are existing residences within the commercial or industrial districts, they are considered legal, non-conforming uses.

Next step is for Brandywine to draft an ordinance proposing these amendments along with the previously discussed amendments to the adaptive reuse of historic structures ordinance for review and discussion at the Commission's December meeting.

### Alternate Energy Systems Ordinance amendments.

The Commission discussed amendments to the Alternate Energy System Ordinance, drafted by Joe Stoyack. Joe Stoyack advised that Solicitor Kristin Camp had searched statewide case law regarding solar power; there were 2 cases but they weren't relative to the Commission's questions. He also advised that there are over 30 townships in Chester County that have alternate energy ordinances, most of which he reviewed and incorporated pieces into his draft.

Joe Stoyack talked about current trends, that homeowners contract with a company to install rooftop solar panels, the company owns the panels/system and the homeowner agrees to purchase power from that company for up to 20 years. There was discussion about repair and replacement of those panels and whether the Township should get involved if there are any safety



issues or unsafe conditions. The township can require safety issues to be fixed but wouldn't be involved in regular maintenance and repair. Discussion included: whether the property owner and/or system owner should be the responsible party to interact with the Township; and the potential for "solar easements". The discussion ended with the determination that Commission members, Al Gaspari, and Kristin Camp should review this draft and provide comments to Joe and Ms. Camp, for discussion at the Commission's December 12 work session.

The Work Session was adjourned at 6:58 p.m.

#### 7:00 Meeting

Bob Schoenberger called the meeting to order at 7:02 p.m. A quorum was present.

#### Profound Technology – Land Development Plan

Kevin Busza, Chris Daily and Alyson Zarro, Esq., were in attendance. Ms. Zarro presented the Land Development Plan proposing a building addition, additional parking, and a loading dock for the existing business at 125 Little Conestoga Road. The Plan had recently received Conditional Use Approval. The November 6, 2019 consultants' review letter was discussed and they'll comply with the majority of the comments. The reduced parking count was addressed during conditional use, the storm water comments are addressed, several waivers were requested regarding preliminary/final plan, allowing 2 access points and allowing a reduced half-width of the roadway – 14' instead of 16'. Discussion included Brandywine's comment of providing 5 streetlights. The Applicant is proposing 1 at each driveway for a total of 2 -- Commission members wanted another added in between. All agreed on 3 village-style streetlights. Also discussed was the pedestrian walkway linking the roadside sidewalk to the front door. The Applicant did not feel the walkway was going to be necessary as they aren't a retail shop and wouldn't have the foot traffic. The October 28 architectural elevations were reviewed. The Planning Commission like the look with the black-color accents, just as the Historical Commission did. Samples of the exterior materials will be provided for review as requested by the Historical Commission.

Joe Stoyack moved, seconded by Jeff Smith, to recommend preliminary/final plan approval and granting the 3 waivers – preliminary/final plan, allow more than 1 access, allow 14' half-width cartway on Little Conestoga Road, and installing 3 streetlights instead of 5. The Motion carried with five (5) in favor and one (1) opposed (Adams)

#### Starbucks – Eaglepointe Shopping Center Final Land Development Plan

Tim Townes and Adam Loew were in attendance. Mr. Townes presented the Plan to convert the former Key Bank building in the Eaglepointe Shopping Center to a Starbucks store with a drive-through. They reviewed Gilmore's November 6, 2019 consultants' review letter, noting they have or will comply with the majority comments and requesting a waiver to consider this plan preliminary and final. Provision of a lighting plan was discussed. They're moving a light pole approximately 5 feet from where it stands. The Commission wants a full lighting plan provided. The comment regarding the ultimate Right of Way could affect the sidewalk and building frontage so they'll discuss this item with the Board of Supervisors. The drive-through configuration, allowing for 10 vehicles to stack within the lane, has an ideal setup for the ordering board location and the pickup window. Peak hours are 6:00 AM to 10:00 AM; those picking up mobile orders typically go in the store; the drive-through lane can accommodate a large pickup truck with full-size bed; there will be 78 seats inside; additional parking on neighboring shopping center lots; no change to the exterior of the building except the placement of the green/white Starbucks logo.

Jim Dewees moved, seconded by Sally Winterton, to recommend preliminary/final plan approval subject to compliance with all of the review letter comments, especially the lighting consultants' comment. The Motion carried unanimously.

### DSM Biomedical – Eagleview Corporate Center Lot 2

Neal Fisher of Hankin, Rob Harris and Carl Holden of DSM Biomedical were in attendance. Mr. Fisher presented a preliminary/final land development Plan proposing the placement of a <500 SF prefabricated building next to the existing building, for outside storage, under cover, of chemicals that are currently stored inside, raw materials, not waste. It is proposed to address DSM's safety regulations which require room to easily move around the containers for inspection and the like. The Applicant received Mr. Gaspari's zoning determination, and they will comply with the consultants' comments. The screen wall is the building's wall, not an additional screen wall and they'll pull it back so it won't interfere with the drainage easement. The prefab structure is made for this type of chemical storage, has its own fire suppression system, its own containment area, is climate controlled, power backup, etc. It will be accessed from outside of the existing building. It is 10' high, is accessed by a pallet jack, not a forklift, and is @ 500' to the closest house. They're asking for 1 waiver, to consider the plan a preliminary and final plan.

Joe Stoyack moved, seconded by Jim Dewees, to recommend preliminary/final plan approval and grant the waiver, subject to compliance with Gilmore's review letter. The Motion carried unanimously.

### Approval of Minutes

Joe Stoyack moved, seconded by Jeff Smith, to approve as presented the minutes of the September 12, 2019 Planning Commission Work Session / Meeting and the October 10, 2019 Planning Commission Work Session / Meeting. The Motion carried unanimously.

### Open Session

Joe Stoyack commended the Township on the Park Road Trail between Hickory Park and Marsh Creek State Park, which is basically complete now.

Sally Winterton commented on Happy Days Farm, 'next door' in Uwchlan Township, might be developed by Audubon Land Development.

### Adjournment

Jim Dewees moved, seconded by Sally Winterton, to adjourn at 8:42 p.m. All were in favor.

Respectfully submitted,

Gwen A. Jonik  
Planning Commission Secretary