



**UPPER UWCHLAN TOWNSHIP
PLANNING COMMISSION
AGENDA
November 12, 2020
7:00 p.m.**

LOCATION: This meeting will be held **virtually**. Any member of the public interested in participating in the meeting should email the Township at tscheivert@upperuwchlan-pa.gov for a link and a password to join in the meeting. To minimize public exposure to COVID-19 and maintain social distancing, the meeting will be conducted via webinar. No attendance in-person will be allowed. If you require special accommodation, please call the Township office at 610-458-9400.

I. Call To Order

II. Outdoor Storage Tank Ordinance Amendments

Discuss draft amendments proposed by:
Patrick Dennin October 14, 2020
Hankin Group November 6, 2020

III. Approval of Minutes: October 8, 2020 Meeting

IV. Next Meeting Date: December 10, 2020 7:00 PM
Location: Will be noted on the website www.upperuwchlan-pa.gov

V. Open Session

VI. Adjournment

UPPER UWCHLAN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. ____-2020

AN ORDINANCE OF THE TOWNSHIP OF UPPER UWCHLAN, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE UPPER UWCHLAN TOWNSHIP ZONING ORDINANCE, WHICH IS CODIFIED IN CHAPTER 200 OF THE CODE OF UPPER UWCHLAN TOWNSHIP, SECTIONS 200-49.K AND 200-49.M(1) TITLED, "USE REGULATIONS FOR THE PI PLANNED INDUSTRIAL/OFFICE DISTRICT"; SECTION 200-49.0 TO FORBID THE STORAGE OF INERT GASES, WATER, BRINE AND OTHER NONFLAMMABLE, NONHAZARDOUS AND NONEXPLOSIVE LIQUIDS AND GASES IN THE PI PLANNED INDUSTRIAL/OFFICE ZONING DISTRICT.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Upper Uwchlan Township that Chapter 200 of the Upper Uwchlan Township Code, titled "Zoning," is hereby amended as follows:

SECTION 1. Section 200-49.K shall be amended as follows:

K.

Wholesaling, warehousing and distributing, provided that there shall be no exterior evidence of such, and, further, no bulk storage of liquid or gaseous fuels or chemicals shall be permitted.

SECTION 2. Section 200-49.M(1) shall be amended as follows:

M.(1)

Manufacturing and processing provided that there shall be no bulk storage of liquid or gaseous fuel or chemicals except for fuel required to service temporary backup power generating equipment which shall be permitted on the exterior of the building and subject to Section 200-80.C(2) (c).

SECTION 3. Severability. If any term, condition, or provision of this chapter shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective.

SECTION 4. Repealer. All Ordinances or parts of Ordinances conflicting with any provisions of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 5. Effective Date. This Ordinance shall become effective five (5) days from the date of enactment.

ENACTED this ____ day of _____, 2020.

ATTEST:

**UPPER UWCHLAN TOWNSHIP
BOARD OF SUPERVISORS**

Gwen A. Jonik,
Township Secretary

Sandra M. D'Amico, Chair

Jamie W. Goncharoff, Vice-Chair

Jennifer F. Baxter, Member

RILEY RIPER HOLLIN & COLAGRECO

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
717 CONSTITUTION DRIVE, SUITE 201
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EXTON, PENNSYLVANIA 19341
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MEMORANDUM

TO: Upper Uwchlan Township
FROM: Alyson M. Zarro, Esquire
CC: Neal Fisher, P.E., The Hankin Group
DATE: November 5, 2020
RE: Hankin/Upper Uwchlan
SUBJECT: Aboveground Outdoor Storage Tanks – PI District

Existing Zoning Ordinance

- The Upper Uwchlan Township Zoning Ordinance (“Zoning Ordinance”) contains two sections that are generally applicable to outdoor storage (Section 200-80) and to storage tanks (Section 200-90). (Copies of these Sections are attached.)
- Section 200-80.A addresses all types of storage in the Township, including principal and accessory uses. Relevant provisions are as follows:
 - Permanent outdoor storage is required to be completely screened from view of any public right-of-way and any adjacent uses in accordance with Sections 200-77 (screening) and 200-88 (fences and walls). (Copies of these Sections are attached.)
 - Screening is required to consist of evergreen plantings, an architectural screen and/or approved safety fence.
 - Permanent outdoor storage permitted as an accessory use must occupy an area of less than half the existing building coverage of the building lot’s principal use. No more than 25% of the building area permitted to be used for outdoor storage. (Greater land area is permitted by special exception.)
 - Outdoor storage is not permitted in any part of any street right-of-way, pedestrian walkway, required parking area or space, or required buffer areas and must be setback 15 feet from any side or rear lot line.

- Section 200-90 applies to aboveground or underground storage tanks uses for the storage of fuels, chemicals, water or any other liquids in the Township. Section 200-90.A(5) currently permits aboveground storage tanks in the C-3 and L-1 Districts.
- Eagleview is zoned PI Planned Industrial/Office District.
 - Section 200-50.D sets forth the yard regulations for the PI District.
 - Under Section 200-50.D, the minimum yard setbacks are increased to 150 feet when:
 - An agricultural use or residential district is adjacent to the front yard.
 - An agricultural use or residential district, or lot containing an occupied dwelling, is adjacent to the side yard. (The increase applies to the abutting side.)
 - An agricultural use or residential district, or lot containing an occupied dwelling unit, is adjacent to the rear yard.

Proposed Zoning Ordinance Changes

- Hankin is proposing changes to two sections of the Zoning Ordinance as follows:
- Change #1:
 - The use regulations for the PI District are set forth in Section 200-49 of the Zoning Ordinance.
 - Section 200-49.O of the Zoning Ordinance sets forth the permitted accessory uses in the PI District.
 - A new subsection (3) would be added to Section 200-49.O to allow “aboveground storage tanks for storage of inert gases, water, brine and other nonflammable liquids” as an accessory use in the PI District.
 - Inert gases are not toxic and react little or not at all with other substances. Inert gases include nitrogen, helium, argon, neon, xenon and krypton.
- Change #2:
 - Section 200-90.A(5) would be amended to allow aboveground storage tanks as an accessory use only (not a principal use) in the PI District. The types of materials permitted in aboveground storage tanks would further be limited by the provisions of proposed Section 200-49.O(3) above.
- A copy of the proposed Zoning Ordinance amendment is attached.

§ 200-80. Outdoor storage. [Amended 12-15-2003 by Ord. No. 03-05]

A. Requirements for all types of storage.

- (1) The restrictions set forth in this section apply to permanent and temporary outdoor storage, as both principal and accessory uses. The restrictions set forth in this section are in addition to any other restrictions and limitations imposed on storage by this chapter and/or other applicable regulation, including, without limitation, the regulations and restrictions applicable to junkyards.
- (2) For the purposes of this section, permanent outdoor storage shall consist only of the storage of materials (e.g., mulch, landscape plant materials) or products that directly pertain to the allowed use(s) of the subject property, except for the outdoor storage of vehicles which is regulated by Subsection D of this section.
- (3) For the purposes of this section, temporary outdoor storage shall consist only of the daily or routine outdoor display of materials or products (e.g., large items for sale at a hardware or grocery store) that are placed inside during nonbusiness hours and that are available for purchase at a business whose use is allowed on the subject property, except for the outdoor storage of vehicles which is regulated by Subsection D of this section.
- (4) Permanent outdoor storage shall be completely screened from view of any public right-of-way and any adjacent uses in accordance with §§ 200-77 and 200-88 of this chapter, and with Chapter 162, Subdivision and Land Development, unless the permanent outdoor storage is a principal use pursuant to Subsection A(7). Screening shall consist of evergreen plantings, architectural screen, and/or approved safety fence.
- (5) No storage shall be permitted within the front yard of any lot.
- (6) Permanent or temporary outdoor storage as an accessory use shall occupy an area of less than 1/2 the existing building coverage of the building lot's principal use. In no case shall more than 25% of the building area be used for any outdoor storage. Accessory uses requiring a greater land area for storage than specified herein may be permitted as a special exception.

- (7) If permanent or temporary outdoor storage is the principal use of a building lot:
 - (a) The front yard need not be screened; all other provisions of Subsection A(4) apply.
 - (b) Subsection A(5) applies, except that the front yard area of the lot may be used for outdoor display and temporary storage.
 - (c) The provisions of Subsection A(6) do not apply.
 - (d) All other applicable provisions of this chapter apply to outdoor storage as the principal use of a building lot.
 - (8) Outside storage shall not occupy any part of any street right-of-way, pedestrian walkway, required parking area or space, or required buffer areas; and shall not be located within 15 feet of any side or rear lot line.
- B. Storage of garbage. All organic refuse or other types of solid waste generated by allowed use of the subject property shall be stored in tight vermin-proof containers. In multiple-family, commercial, and industrial developments, garbage storage shall be consolidated to expedite collection and enclosed on three sides by an architectural screen or plantings. Either type of screen must fully enclose the garbage storage area, and must include a secure gate on the fourth side for access and to prevent scattering of empty garbage cans by wind. If an architectural screen is used, materials are limited to wood, brick, or masonry. The architectural screen shall be designed and constructed consistent with the requirements of the zoning district within which the garbage storage is located. If the topography of the garbage storage site allows view of the garbage storage area from a public right-of-way, trail, or adjoining property above the garbage storage area, then an architecturally compatible roof must also be provided that screens the view into the garbage storage area.
- C. Storage of fuel and other explosive materials.
- (1) Outdoor storage facilities for fuel, including aboveground storage tanks, raw materials, and products, but excepting residential storage of firewood and fuel, shall be enclosed with an approved safety fence compatible with the architectural and landscaping style employed on the lot. All fencing shall be erected in accordance with §§ 200-77 and 200-88 of this chapter, and with Chapter 162, Subdivision and

Land Development. In addition to a fence, aboveground storage tanks for products that remain liquid upon atmospheric contact shall be enclosed by a moat or berm appropriately designed and constructed to contain potential spillage.

(2) No highly flammable or explosive liquids, solids, or gases, as defined by applicable regulations, shall be stored in aboveground storage tanks in any of Upper Uwchlan Township's zoning districts, except as follows:

(a) Aboveground storage tanks of fuel connected directly with and located and operated on the same lot as the energy devices or heating appliances they serve.

(b) In the C-3 Highway Commercial Zoning District or the L-1 Limited Industrial Zoning District, only, commercial aboveground storage tanks that store and supply fuel for heating and other commercial uses.

(c) For any new aboveground storage tanks that may be permitted under Subsection C(2)(b), the following shall apply:

[1] The tank installation shall be designed and its construction supervised by a registered professional engineer. The applicant shall file, with the Township and at the time of application for a building permit, a location (site) plan and details for the tank, including a feasibility study describing why a particular site was chosen for the proposed aboveground storage tank, all prepared by the same engineer. Any additional permits required by state or federal agencies for the construction of the tank shall also be submitted to the Township at the same time.

[2] No commercial aboveground storage tank shall be constructed closer than 50 feet to any property or right-of-way line.

(d) All pertinent state and federal regulations apply to and otherwise supersede the requirements of this section if a conflict arises.

D. Storage of vehicles. For the purposes of this section, a vehicle shall be deemed to be stored outdoors unless it is located within a garage or other structure enclosed on at least three sides with a roof. Also:

- (1) In all districts, unless otherwise approved by Upper Uwchlan Township, no trailer, travel trailer, motorized dwelling, tent trailer, boat trailer, recreational vehicle or similar vehicle shall be stored outdoors within any required front yard area nor within 15 feet of any side or rear lot line, except as provided in Subsection D(2) below.
- (2) On any property zoned for residential use, currently registered and operable vehicles owned by the resident(s) of the property may be stored (parked) without limitation, where not stored within any required minimum yard or setback area. No more than three currently registered and operable vehicles may be stored within required minimum yard areas.
- (3) No unlicensed or unregistered motor vehicle other than farm vehicles, and no inoperable farm vehicle, may be stored outdoors on any lot for a period in excess of six months. No more than two unlicensed and/or unregistered vehicles may be stored outdoors on any lot at any one time.

§ 200-90. Storage tanks. [Amended 12-15-2003 by Ord. No. 03-05]

- A. The following regulations shall apply to aboveground or underground tanks used for the storage of fuels, chemicals, water or any other liquids. See also § 200-80 of this chapter for the further regulation of aboveground storage tanks.
- (1) Aboveground and underground storage tanks specifically exempted under Act 247, the Municipalities Planning Code, as amended, shall also be exempted from this chapter. If the exemption is for a storage tank proposed or used by a public utility or authority, the provisions of § 200-84 of this chapter shall apply.
 - (2) Underground storage tanks used at vehicular service establishments shall be subject to the provisions of § 200-85 of this chapter.
 - (3) All underground storage tanks not used at vehicular service establishments shall comply with all applicable regulations of the U.S. Environmental Protection Agency, the Pennsylvania Department of Environmental Protection, and Upper Uwchlan Township, including notification and registration requirements. If warranted, and as determined by the Township, the applicant may be required to place tanks in a concrete vault, install other impervious liners, and/or install monitoring devices.
 - (4) Any underground storage tanks, other than those used at vehicular service establishments, are allowed in only the C-3 Highway Commercial Zoning District or the L-1 Limited Industrial Zoning District as established by this chapter.
 - (5) Aboveground storage tanks are allowed only in the C-3 Highway Commercial Zoning District or the L-1 Limited Industrial Zoning District as established by this chapter and in all cases, shall comply with all applicable provisions of § 200-80 of this chapter.¹

1. Editor's Note: Original § 1518, Steep Slope Conservation District, which immediately followed this subsection, was deleted 1-17-2006 by Ord. No. 06-01. See now § 200-107.

§ 200-77. Screening.

- A. Screening requirements shall be applicable under the following circumstances:
- (1) Where a proposed commercial, industrial or institutional use abuts an existing residential use or residential district.
 - (2) Where any proposed multifamily residential use abuts another residential district or an existing single-family or two-family dwelling.
 - (3) Any other instance where screening is required by this chapter or by the Township.
- B. Screening shall comply with the following requirements:
- (1) The portion of the tract that abuts a use or district intended to be screened shall be provided with a minimum of thirty-foot planting strip which will act as an effective screen separating uses. The planting strip may be included in private yard space and shall be based upon the following criteria:
 - (a) Vegetative screening shall include a variety of evergreen species (but no more than three) which are indigenous to the area so as to provide a year-round visual barrier.
 - (b) Vegetative screening shall incorporate earthen mounds or berms, wherever possible, to improve sound as well as visual buffering, and shall be broken at points of vehicular or pedestrian access.
 - (c) Plant materials used in the screen planting shall be at least six feet in height when planted and be of a species which will produce within two years a complete visual screen of at least eight feet in height.
 - (d) No plantings shall be placed with their center closer than five feet from the property line of the tract.
 - (e) All existing trees within the required planting strip above three inches in caliper and/or eight feet in height shall be preserved wherever possible.
 - (f) Screening shall be designed so as not to obstruct sight distances at intersections.
 - (g) Screening design, including the type of plant materials to be used, spacing of plant materials, and the use and

location of earthen berms, shall be subject to review and approval by the Board of Supervisors upon the recommendation of the Planning Commission.

- (h) Vegetative screens shall be perpetually maintained during the period the principal use causing the need for screening is in operation. Any plant material which does not survive shall be replaced within six months.
- (2) Water towers, storage tanks, processing equipment, fans, skylights, cooling towers, vents and any other structures or equipment which rises above the roof line shall be architecturally compatible or effectively shielded from view from any public or private dedicated street by an architecturally sound method which shall be approved, in writing, by the Township before construction or erection of said structures or equipment.

§ 200-88. Fences and walls. [Amended 12-15-2003 by Ord. No. 03-05]

The following regulations shall apply to all districts:

- A. No fence or wall, except a retaining wall, or a wall of a building permitted under the terms of this chapter, over six feet in height, shall be erected within any required yards, unless that portion of the vertical plane of the fence or wall which exceeds six feet in height has a ratio of open area to solid area of at least 4:1. In no case shall a fence or wall exceed six feet in height in the front yard or eight feet in height in the side and rear yards, except for vegetative fences or the portions thereof that are greater than six feet or eight feet, as applicable.
- B. No fence or wall shall be erected and no hedge, tree, shrub, or other vegetative growth shall be maintained which may obstruct required sight distance at street intersections, public streets, private roads, or driveways, in accordance with Chapter 162, Subdivision and Land Development, and with §§ 200-75H and 200-88A of this chapter.
- C. All swimming pools, excluding portable or aboveground pools less than three feet in depth, shall be completely enclosed by a contiguous fence no less than four feet in height that completely surrounds the pool, that serves as a restricted barrier against trespass, and that is white or earth-tone in color. All swimming pool fences shall adhere to applicable building code regulations, and shall be maintained in good condition. A dwelling, accessory building, or other structure allowed by this chapter may be used as part of such enclosure. All gates and doors opening through any swimming pool enclosure shall be equipped with a self-closing and self-latching device for keeping such gate or door securely closed and latched at all times when not in use.
- D. Fences or walls that are in conformance with all of the provisions of this and other applicable ordinances may be permitted within required setbacks.
- E. Fences or walls shall not be located in drainage easements or drainage swales that are part of an approved stormwater management plan pursuant to applicable ordinances, in such a manner as to impede water flow within the easement or swale.
- F. Where the foregoing provisions conflict with landscaping, buffer area, planting, or screening requirements of this and other

§ 200-88

§ 200-88

Township ordinances, the Zoning Officer shall determine which ordinance applies.

UPPER UWCHLAN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWNSHIP OF UPPER UWCHLAN, CHESTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 200 OF THE UPPER UWCHLAN TOWNSHIP CODE, AS AMENDED, ENTITLED "ZONING", AMENDING SECTION 200-49.O TO ADD A NEW SUBSECTION 3 THERETO TO PERMIT ABOVEGROUND STORAGE TANKS AS AN ACCESSORY USE IN THE PI PLANNED INDUSTRIAL/OFFICE DISTRICT; AND AMENDING SECTION 200-90.A(5) TO PERMIT ABOVEGROUND STORAGE TANKS AS AN ACCESSORY USE IN THE PI PLANNED INDUSTRIAL/OFFICE DISTRICT.

NOW THEREFORE BE IT ENACTED AND ORDAINED by the Board of Supervisors of Upper Uwchlan Township, Chester County, Pennsylvania, that Chapter 200 of the Upper Uwchlan Zoning Code, entitled, "Zoning", as amended, shall be amended as follows:

SECTION 1. Section 200-49.O shall be amended by adding a new subsection (3) which shall provide as follows:

"(3) Aboveground storage tanks for storage of inert gases, water, brine and other nonflammable, nonhazardous and nonexplosive liquids or gases."

SECTION 2. Section 240-90.A(5) shall be amended to as follows:

"(5) Aboveground storage tanks are allowed only in the C-3 Highway Commercial Zoning District, the L-1 Limited Industrial District or as an accessory use in the PI Planned Industrial/Office District as established by this chapter and in all cases, shall comply with all applicable provisions of § 200-80 of this chapter."

SECTION 3. 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 4. 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 5. Effective Date. This Ordinance shall become effective in five days from the date of adoption.

ENACTED AND ORDAINED this _____ day of _____, 2020.

ATTEST:

**UPPER UWCHLAN TOWNSHIP
BOARD OF SUPERVISORS**

Gwen A. Jonik, Secretary

Sandra M. D'Amico, Chair

Jamie W. Goncharoff, Vice-Chair

Jennifer F. Baxter, Member



UPPER UWCHLAN TOWNSHIP

Planning Commission Meeting

October 8, 2020

7:00 p.m.

Minutes

DRAFT

LOCATION: This was a virtual meeting, held via Zoom audio/video conferencing, in order to minimize public exposure to COVID-19 and maintain social distancing. The meeting Public Notices instructed those interested in participating in the meeting to email or call the Township Secretary for the link and password to join in the meeting.

In attendance:

Bob Schoenberger, Chair; Sally Winterton, Vice-Chair; Jim Dewees, Chad Adams, Joe Stoyack, Brett Hand, Josh Hagadorn – Gilmore & Associates, Tony Scheivert – Township Manager, Gwen Jonik – Planning Commission Secretary

Bob Schoenberger called the meeting to order at 7:03 p.m. A quorum was present. There were seven citizens in attendance.

Eagleview Corporate Center Lot 9 Universal Technical Institute (UTI)/ Frontage Laboratories Preliminary / Final Land Development Plan

Nick Hartman of Hankin Group and Rick Stratton of Chester Valley Engineers reviewed the Plan and the consultants' comment letter. Steve Hetland of Frontage attended also. Mr. Hartman reiterated that the 27+ acre lot abuts the Turnpike; the UTI building is 195,000 SF but UTI has modified their program and doesn't need all of the space. Frontage would like to expand their offices and Research & Development group into a portion of the space. Modifications are proposed at the back of the building to accommodate 3 loading areas (2 at grade and 1 raised 4') and 2 outdoor storage areas. No additional building is proposed, and impervious surface will decrease as they're removing some of the parking. They'll comply with the consultants' October 1 review letter. They'll add the fence detail, verify the parking counts, and the vehicle turning analysis. Repurposing a portion of the building will decrease the overall traffic. A new sanitary sewer lateral will be installed to connect into the existing lateral at the front of the building, which is served by the Eagleview system operated by Uwchlan Township. The smaller storage area is for storing the empty drums (20 55-gallon drums) and the trash dumpster. The larger storage area is for the back-up generator with a self-contained diesel fuel tank. No other outdoor storage tanks are proposed at this time. Following analysis, lab samples are bagged, placed in the drums and professionally handled by a waste company. The sewer lateral is for the gray restroom and regular sink water; water from the labs gets collected into drums and picked up by a waste company. Any chemicals used in the labs are in small bottles and safely handed in a special storage area inside. There's aqueous solution, which isn't hazardous or toxic. Maximum number of employees is 120; 1 daytime shift 8:00-5:00 or 9:00-6:00. Hankin does annual inspections of the buildings; weekly inspections by the Frontage Safety Officer; safety and fire inspections conducted by outside agencies as required for certifications, licensing, operations.

Joe Stoyack moved, seconded by Jim Dewees, to recommend to the Board of Supervisors granting approval of the Preliminary/Final Land Development Plan conditioned on compliance with the consultants' comment letter and compliance with comments by the Township Fire Marshal upon Plan review. The Motion carried unanimously.

Approval of Minutes

Sally Winterton moved, seconded by Chad Adams, to approve as presented the minutes of the September 10, 2020 Planning Commission meeting. The Motion carried unanimously.

Bob Schoenberger announced the next meeting date, November 12, 2020, 7:00 p.m.

Open Session

Joe Stoyack expressed concern with potential expansion of the lab.

Steve McNaughton commented on other outdoor storage tanks in Eagleview.

Discussion included what types of tanks need to be licensed or inspected by outside agencies;

Stephen Fean found an answer on-line and will provide it to the group.

The Township did investigate the non-conforming outdoor tanks in Eagleview and that's why the Township is considering amendments to the outdoor storage tank ordinance.

Jim Dewees questioned modifications to a property in the Village of Byers. Tony Scheivert will look into it.

Chad Adams commented the Township cited FedEx for noise violations. Tony Scheivert confirmed that occurred, FedEx pled not guilty so it's being schedule for a District Court Hearing.

Adjournment

Jim Dewees moved, seconded by Chad Adams, to adjourn at 7:57 p.m. All were in favor.

Respectfully submitted,

Gwen A. Jonik
Planning Commission Secretary