UPPER UWCHLAN TOWNSHIP
140 Pottstown Pike
Chester Springs, PA 19425
610-458-9400 Fax 610-458-0307

CONDITIONAL USE APPLICATION

Tax Parcel Number: _____ Date: _____

Name of Applicant: _____

Address: _____

Telephone: _____ Email: _____

Owner of Parcel: _____

Address / Location of Parcel: _____

Zoning District: _____ Existing Use: _____

Article / Section Authorizing Conditional Use: _____

Description of Proposed Conditional Use: _____

_____

_____

This Application shall be accompanied by:

1. A fee of $500.00 ** for Non-Commercial or $1,000.00 ** for Commercial/Industrial;
2. Twenty (20) copies of parcel plot plans (half of which can be of reduced size, i.e. 11 x 17), impact statements (if applicable pursuant to the Township's Zoning Ordinance §200-83) and any other information pursuant to Zoning Ordinance §200-116., §200-117. (Conditional Uses, Conditional Use Standards).

** Plus Reimbursement of Township's Consultant and Legal Fees; and Additional Hearing Fees: Non-Commercial $250.00/Hearing; Commercial/Industrial $500.00/Hearing

I hereby depose and say that all of the above statements, and the statements contained in any papers submitted herewith, are true to the best of my knowledge and belief.

_____ _____

Printed Name of Applicant Signature of Applicant

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CHESTER
Sworn to and subscribed before me this
_____ day of _____, 20____.

_____

Notary Public

Form Revised January 2015

(3) Motor vehicle operations shall not exceed the noise levels established in Chapter 157 of Title 67 of the Pennsylvania Code of Regulations, Subchapter B, Established Sound Levels.

G. Odors. No uses, except agricultural operations, shall emit odorous gases or other odorous matter in such quantities to be offensive at any point on or beyond its lot lines. Odor thresholds shall be measured in accordance with ASTM d-1391-57, "Standard Method for Measurement of Odor in Atmospheres (Dilution Method)."

H. Vibration. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot line.

I. Radioactivity. There shall be no activities which emit dangerous radioactivity at any point. Also:

(1) No operation involving radiation hazards shall be conducted which violates the regulations and standards established in the Code of Federal Regulations, "Standards for Protection Against Radiation," in its latest revised form.

(2) If any use is proposed which incorporates the use of any radioactive materials, equipment or supplies, such use shall be in strict conformity with the Pennsylvania Department of Environmental Protection, rules and regulations, as amended.

J. Electrical, radio, and electromagnetic interference.

(1) There shall be no radio, electrical, or similar disturbances adversely affecting the operation of equipment belonging to someone other than the creator of the disturbance.

(2) No use, activity, or process shall be conducted which produces electromagnetic or other interference with normal radio, telephone, or television reception beyond the lot line of the conducted use, activity, or process.

K. Public health and safety. No use shall create any other objectionable condition in an adjoining area which will endanger public health and safety or be detrimental to the proper use of the surrounding area.

§ 200-83. Impact statements. [Amended 12-15-2003 by Ord. No. 03-05]

All uses permitted by this chapter shall be subject, when applicable, to the impact statement requirements of Chapter 162, Subdivision and Land Development, § 162-9H, or § 200-117, Conditional use standards. Where the use is part of a request for a zoning permit, the Zoning Officer shall not issue such a permit until the terms of § 162-9H or § 200-117, and any conditions imposed upon the use of the property at the time of subdivision or land development approval, are satisfied.

(2) Inside:

(a) Wood burning stove and its chimney.

(b) Electrical connections.

(c) HVAC.

(d) Smoke detectors (required for each floor and basement, battery or hot wired).

(3) Miscellaneous:

(a) Recycling bins (both must be present).

(b) Fee status:

[1] Solid waste collection.

[2] UUTMA (if applicable).

(c) Zoning (use).

C. Application procedures. All applications for use and occupancy permits shall be made in writing on forms furnished by the Township and shall include all information necessary to enable the Zoning Officer to ascertain compliance with this chapter.

D. Issuance.

(1) Use and occupancy permits shall be granted or refused within 10 days from the date of application. No application shall be granted or refused until the Zoning Officer has inspected the premises. Issuance of this permit by the Township official or employee designated by the Zoning Officer shall be based in conformity of the work to the requirements of this chapter and any other pertinent ordinance.

(2) Pending completion of a building or of alterations thereto, temporary use and occupancy permit may be issued by the Zoning Officer for a temporary occupancy of part or all of the building, provided that such temporary occupancy will not adversely affect the health, safety, and welfare of the public or property, and providing further that a time limit for temporary permits not exceeding six months shall be established.

(3) In commercial and industrial districts in which performance standards are imposed or when required by the Zoning Officer, no use and occupancy permit shall become permanent until 60 days after the facility is fully operating, when upon a reinspection by the Zoning Officer it is determined that the facility is in compliance with all performance standards.

§ 200-116. Conditional uses.

A. An application for a conditional use shall be filed with the Board of Supervisors, and shall state:

(1) The name and address of the applicant.

(2) The name and address of the owner of the real estate to be affected by the proposed conditional use application.

(3) A description and location of the real estate on which the conditional use is proposed.

(4) A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.

(5) A statement of the section of this chapter which authorizes the conditional use.

(6) An accurate description of the present improvements and the additions intended to be made under the application for conditional use, including the size or proposed improvements, material and general construction features. The application shall be accompanied by a proposed plan showing the size and location of the proposed use, the location of all proposed buildings, all proposed facilities, including access drives and parking areas, and dimensional features demonstrating compliance with the applicable area, width, coverage, yard and design standards.

B. The application for a conditional use shall be filed with the Secretary of the Township on such forms as may be prescribed for that purpose, and shall be accompanied by the application fee, prescribed from time to time, by the Board of Supervisors. No application shall be received for filing unless accompanied by the required filing fee. The Secretary shall submit the application to the Township Planning Commission within five days of receipt, and the Planning Commission shall review the application and make a recommendation to the Board of Supervisors within 30 days thereafter.

C. The Board of Supervisors shall hold a public hearing on the conditional use application in accordance with the following procedures:

(1) Notice of the hearing shall be given to the public by publication in newspaper of general circulation in the Township at least twice, the first such notice to be not less than 10 days prior to the date of the scheduled hearing. Additionally, like notice thereof shall be given to the applicant, the Zoning Officer, and to any person who has made timely written request for same. Notice of the hearing shall be conspicuously posted on the affected tract of land. The Board of Supervisors shall conduct its first hearing on the application within 60 days from the date the application is filed with the Township Secretary.

(2) The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of the record before the Board of Supervisors, and any other person, including civic or community organizations, permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter written appearances on forms provided by the Board for that purpose.

(3) The Chairman or Acting Chairman of the Board shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the

production of relevant documents and papers, including witnesses and documents requested by the parties.

(4) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

(5) The Board of Supervisors shall keep a stenographic record of the proceedings and a transcript of the proceedings and copies of the graphic or written material received in evidence shall be made available to any party at cost.

(6) The Board shall render a written decision within 45 days after the last hearing before the Board. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor.

(7) A copy of the final decision shall be delivered to the applicant and the parties before the Board personally or mailed to them not later than the day following the date of the decision.

(8) The provisions of this Subsection C are meant to be directory and not mandatory.

D. In granting or denying a conditional use or establishing conditions with reference to such grants, the Board of Supervisors shall use as a guide in evaluating a proposed conditional use, and may determine to be mandatory, those standards established for review of special exception applications by § 200-126J of this chapter. The burden of establishing compliance with those enumerated standards shall be upon the applicant by a fair preponderance of the credible evidence. The standards required by this subsection shall be deemed a part of the definitional aspect under which a conditional use may be granted, and the failure of the applicant to establish his compliance with all of the standards shall, in the discretion of the Board, be deemed either a basis for the establishing of conditions or limitations on an approval or the basis for a determination that the applicant has not met the requirements for which a conditional use may be granted.[16]

E. Nothing in this section shall be construed to relieve the applicant for a conditional use approval from obtaining other required approvals mandated by Chapter 162, Subdivision and Land Development, or other applicable ordinances.

F. Appeals from a determination of the Board pursuant to any application for conditional use shall be only as prescribed within such times permitted by the applicable provisions of the Pennsylvania Municipalities Planning Code.

G. In granting an application for conditional use, the Board may attach such additional reasonable conditions and safeguards as it deems necessary and appropriate to insure compliance with the provisions of this chapter and to protect the health, safety and general welfare of the community. The Board of Supervisors, in granting an application for conditional use may approve modifications to applicable area and bulk regulations when said modifications are deemed by the Board of Supervisors to be in the public

16. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

interest and in furtherance of the goals set forth in this chapter of Upper Uwchlan Township. In approving such modifications, the Board of Supervisors may attach any conditions deemed necessary by the Board to ensure adequate screening, landscaping, buffering of neighboring properties, or other means to mitigate potential impacts resulting from modifications to area and bulk regulations. **[Amended 5-1-2000 by Ord. No. 00-01[17]]**

§ 200-117. Conditional use standards. [Added 5-18-1998 by Ord. No. 98-04]

In addition to any information as required by this chapter, the applicant shall provide information to prove by a preponderance of evidence that the proposed use will comply in all respects with the zoning and subdivision/land development standards and regulations and the Township's future Land Use Plan and Open Space and Recreation Plan.

A. The applicant shall establish by a fair preponderance of credible evidence that the use intended at the location intended shall not be contrary to the public health, safety and welfare.

B. The applicant shall establish by a fair preponderance of credible evidence that the capacity of the road network providing access to the premises in question, when the incremental increase in traffic attributable to the proposed use is superimposed upon the existing use of the road network, shall not lower the level of service of the roads or any portion thereof below the level of service that would occur in the future without the proposed development.

C. The applicant shall establish by a fair preponderance of credible evidence that the external access locations and interior traffic circulation for the proposed use at the proposed location, including but not limited to acceleration and deceleration lanes and parallel access road where required at the proposed entrances to the location, shall be adequate to provided safe and convenient circulation for users of the facility, visitors to the facility, employees of the facility and all emergency vehicles that may require entrance thereon.

D. The applicant shall establish by a fair preponderance of credible evidence that the facility provides safe and convenient pedestrian access and internal circulation within the grounds of the facility and particularly for points of access from the facility to the parking areas.

E. The applicant shall establish by a fair preponderance of credible evidence that adequate screening is provided between the lands in question and surrounding residential uses and residentially zoned districts to screen the facility from view, preclude any glare from lighting or excessive noise from being ascertainable beyond the boundaries of the property.

F. The applicant shall establish by a fair preponderance of credible evidence, which shall include but not necessarily be limited to a certificate from the chief of the fire company

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17. **Editor's Note: Section 2 of this ordinance also provided "Applications to the Board of Supervisors to waive certain applicable area and bulk regulations shall be reviewed and commented on by the Township's Planning Commission."**

providing services to the facility, that the said company has adequate facilities to reach the highest points of the building with ladders and hoses or, in the alternative, that such facilities satisfactory to the fire company will be provided by the owner or operators of the facility.

G. The applicant shall establish by a fair preponderance of credible evidence that adequate water storage is available at the facility for fire-fighting purposes without impairing the uses of the water supply for ordinary purposes on the premises. The evidence shall include but not be limited to a water supply plan, a fire plan and a certificate of the adequacy of both executed by the chief of the fire company providing services to the facility, and the plans shall be prepared and certified as correct by a registered professional engineer and approved by the Township Engineer.

H. The applicant shall establish by a fair preponderance of credible evidence the adequacy of public water supply (Chapter 183, Article I, Public Water Supply), sanitary sewer facilities, stormwater management facilities, and all other utilities that the development will access or otherwise utilize. The applicant shall specifically document the availability of capacity within the sanitary sewage system that will service the proposed facility. **[Amended 12-15-2003 by Ord. No. 03-05]**

I. The applicant shall submit information that documents conformance to all requirements of § 162-9H of Chapter 162 (impact statements - traffic, recreation, and historic, as well as fiscal impact statements), as established in both § 162-9H of Chapter 162 and the following Subsection J. **[Added 12-15-2003 by Ord. No. 03-05]**

J. The applicant shall submit a site analysis and impact plan, pursuant to § 162-9D of Chapter 162, Subdivision and Land Development. **[Added 12-15-2003 by Ord. No. 03-05]**

K. A fiscal impact analysis shall be prepared for all conditional uses identifying the likely impact of the development on the Township's tax revenue and expenditure patterns. Included shall be a determination of the revenues to accrue to the Township as a result of a proposed development, as well as an identification of the costs associated with delivering services to the proposed development. The analysis shall deal with the impact of the proposed development on the ability of the Township to deliver fire, police, administrative, public works and utility services to the development. The applicant shall utilize one or more methodologies described as appropriate for the proposed land use(s) in The Fiscal Impact Handbook (Rutgers Center for Urban Policy Research, 1978), The New Practitioner's Guide to Fiscal Impact Analysis (Rutgers Center for Urban Policy Research, 1985), The Development Impact Assessment Handbook (Urban Policy Research, 1994), or a more recent publication/methodology as may be available. Population and other demographic multipliers used in preparing the analysis should be developed from local sources when available (such as from Upper Uwchlan Township, the Downtown Area School District and the Chester County Planning Commission) or from the most recent information published by the U.S. Department of Commerce, Bureau of the Census. In the preparation of the fiscal impact analysis, the applicant shall also solicit information from Upper Uwchlan Township officials (administration, public works, police, fire and emergency services, parks and recreation) regarding the need to add staff, facilities or equipment in order to properly service the development proposal

and the associated costs of providing these services. **[Amended 12-15-2003 by Ord. No. 03-05]**

L. The Board of Supervisors may impose such conditions, in addition to those required, as are necessary to assure that the intent of this chapter is complied with, which conditions may include, but are not limited to, harmonious design of buildings, planting and its maintenance as a sight or sound screen, the minimizing of noxious, offensive or hazardous elements, adequate standards of parking and sanitation. **[Amended 12-15-2003 by Ord. No. 03-05]**

§ 200-118. Liability. [Amended 5-18-1998 by Ord. No. 98-04]

The granting of any permit under this chapter by the Township or any of its designated officials or the use of land or structures or the erection, alteration or extension of any structure or the approval of any subdivision or land development plan, shall not constitute a representation, guarantee, or warranty of any kind by the Township or any of its officials or employees as to any manner of injury resulting from such use, erection, alterations or extension, and shall create no liability upon, or a cause of action against such public body, officials or employees for any damages or injury that may result pursuant thereto.

§ 200-119. Exemption.

A. The provisions of this chapter shall not apply to Upper Uwchlan Township nor to any building or land of the Township or extension thereof, or to the use of any premises by the Township, nor shall its provisions be construed to apply in any way to any building, lands or premises owned or operated by the Township.

ARTICLE XX
Zoning Hearing Board

§ 200-120. Statutory provisions; establishment and membership.

A. The provisions of this article of the chapter are intended to parallel the Pennsylvania Municipalities Planning Code and said provisions are amended as the MPC is amended.

B. There shall be a Zoning Hearing Board which shall consist of three members who shall be appointed by resolution of the Board of Supervisors and who shall be residents of the municipality. The Board of Supervisors shall designate one such member to serve until the first day of January following the effective date of this chapter, one until the first day of the second January thereafter, and one until the first day of the third January thereafter; shall appoint their successors on the expiration of their respective terms to serve three years, and shall fill any vacancy for the unexpired term of any member whose term becomes vacant. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by majority vote of the governing body which appointed the member, taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing will be held in connection with the vote if the member shall request it in writing.