



BOARD OF SUPERVISORS
WORKSHOP
AGENDA

December 10, 2019
4:00 p.m.

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

	Packet Page #
I. Call to Order	
A. Salute to the Flag	
B. Moment of Silence	
C. Inquire if any Attendee plans to audio or video record the Workshop	
D. An Executive Session was held November 23, 2019 re: personnel and legal matters	
II. Lionville Fire Company – Tower Truck Replacement	2
III. Disposition of Township Property – HP ZBook Laptop	5
IV. Township Manager's Report	6
V. Open Session	
VI. Adjournment	



UPPER UWCHLAN TOWNSHIP

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TO: Board of Supervisors
FROM: Gwen Jonik, Township Secretary
RE: Lionville Fire Company – Tower Truck Replacement
DATE: December 6, 2019

Mark Hull, President of Lionville Fire Company, plans to attend the December 10, 2019 Workshop to speak with you about their plan to replace the tower ladder truck approaching 20 years of age. Mr. Hull will expand upon the details in the attached letters.

The Township has contributed in the past towards the purchase of fire-fighting/rescue equipment, spreading the additional contributions over a period of 4-5 years. We contributed \$26,400/year towards a truck for Lionville Fire Company ending in 2012.



Lionville Fire Company

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April 22, 2019

Upper Uwchlan Township Board of Supervisors
Mr. Guy Donatelli, Ms. Sandra D'Amico, Mr. Jamie Goncharoff

The Lionville Fire Company

Re: 2019 Emergency Services Provider Agreement

Dear Upper Uwchlan Board of Supervisors,

On behalf of the Membership of the Lionville Fire Company, I would like to thank you for your continued support in 2019 and the opportunity to provide emergency services to the Citizens of Upper Uwchlan Township. I have attached the signed Emergency Services Provider Agreement for an annual contribution of \$74,282.00 broken into two equal payments of \$37,141.00. We also look forward to supporting the township during the course of the year for scheduled special events.

In closing, I would like to respectfully request time to meet before you get into your budgeting season. We have begun the process and are reviewing options for the replacement of our aging tower ladder. This is a specialized piece of equipment that helps us keep up with the growth in our community, and we will be reaching out to our township partners for any assistance available. The current truck is a 2000 Pierce Dash 100' SkyArm Tower, and at almost twenty years of service, maintenance and repair costs are beginning to increase, hence the discussion of replacement.

We look forward to hearing back from you on availability to discuss our plans for replacement, address any questions you may have, and understand any assistance Upper Uwchlan can offer.

Sincerely,

Mark Hull

President, Lionville Fire Company

RECEIVED

NOV 21 2019

UPPER UWCHLAN TWP
ADMINISTRATIVE OFFICES



Lionville Fire Company

Proudly Serving since 1911

PO BOX 478, Lionville PA 19353
610-363-7663 lionvillefire.org

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OCTOBER 25, 2019

Ms. Gwen Jonik
Upper Uwchlan Township Secretary
415 Eagleview Boulevard- Suite 116
Exton, PA 19341

RECEIVED
NOV - 1 2019
UPPER UWCHLAN TWP.

Please find enclosed the financial audit report for the Lionville Fire Company for 2018. Please contact me with any questions or concerns you may have.

Also included is a copy of the Fire Company's 2019 year-to-date accounting which includes our Long Range Plan. The Company is in the final stages of designing the replacement for our 19 year old 100ft aerial ladder tower. The projected cost to purchase and equip this vehicle is \$1,300,000.00. In order to make this purchase, the Company will utilize funds from its annual fund drive, joint-purchase agreement with the Lionville Firefighters Relief Association, and obtainment of a PEMA provided 2% loan. Any balance thereafter will need to be funded by an additional bank-funded loan. Assistance in funding this specialized purchase is necessary to ensure the protection of our citizens as well as the long-term financial strength of our organization.

Please feel free to contact myself or Company President Mark Hull to discuss this matter further.

Sincerely,

Lee Ruth
Treasurer
610-656-1254

Mark Hull
President
484-678-4295



UPPER UWCHLAN TOWNSHIP

MEMORANDUM

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ADMINISTRATION

TO: BOARD OF SUPERVISORS
FROM: Gwen Jonik, Township Secretary
RE: Disposition of Township Property – Approval of High Bid
DATE: December 6, 2019

We had replaced an HP ZBook laptop with Windows 7 operating system this Fall, following the advice of our I.T. management firm, as Windows 7 will no longer be supported beginning in 2020. The computer was in very good condition, so we had it 'cleaned', returned to factory settings, and placed it for sale on Municibid. A reserve price was set to recover the cost of the 'cleaning'. The electronic auction public notice was published in the Daily Local News, as required.

HP ZBook Laptop (s/n CND525BPHT)
Page viewed 331 times
Number of bids received: 7
The high bid is \$148.31
The reserve price has been met.

The Board is requested to accept the high bid for this item at \$148.31 at your December 10, 2019 Workshop.



UPPER UWCHLAN TOWNSHIP

MEMORANDUM

6

ADMINISTRATION

TO: UPPER UWCHLAN TOWNSHIP BOARD OF SUPERVISORS
FROM: Shanna Lodge, Acting Township Manager
SUBJECT: Township Manager's Report
DATE: December 6, 2019

2020 Budget

Consideration of the 2020 Budget will be on the Board of Supervisors' December 16, 2019 meeting agenda. The Budget before the Board for adoption will be as follows:

General Fund	\$ 6,143,108
Capital Reserve Fund	3,918,539
Solid Waste Fund	914,796
Water Resource Protection Program	560,351
Liquid Fuels Fund	621,254
Act 209 Traffic Impact Fund	---
Sewer Fund	328,064
TOTAL	\$ 12,486,112

Park Road Trail

The final punch-list for this project has been completed. A walk through in mid-December will close out the project in ECMS. A reimbursement from the Commonwealth in the amount of \$63,533.55 was received on December 4. We expect a final reimbursement in conjunction with the project close-out. Due to the timing of the project, 50% of the grass seed was placed this year. The contractor will return in the spring to address any top-soil erosion and re-seed.

Township Building Expansion

The contractors continue work on the Township Building renovation project. The building is now under roof, and installation of drywall, insulation, and a standing seam roof began the week of December 2. Temporary heat has been installed. An optimistic projection has the project back on schedule by the end of December.

Two change orders will be before the Board at your December 16 meeting:

- **Paving** – \$55,969 increase due to change in scope.

- **Roofing** – Increase in scope to add re-roof of the Schoolhouse. Awaiting finalization of construction cost.

Purchase of furniture, which was not in the contract, but is included in the 2020 budget, will be before the Board for consideration on December 16.

Easement Agreement

A drainage easement agreement for the Fehr property at 6 Meadowcreek Lane will be before the Board at your December meeting. The easement was prepared by the Township Solicitor with input from the Township wastewater engineer.

Ordinances

Two ordinances will be before the Board at your December 16 meeting.

- **DROP Ordinance Amendment** – An Ordinance amending the Police Pension Plan, specifically the Deferred Retirement Option Program (DROP) to extend the time for an officer who has opted to participate in the DROP to resign from employment from four years to five years from the date of opting into the DROP.
- **Alternative Energy Ordinance** – An ordinance amending Chapter 77 of the Upper Uwchlan Township Code, adding new defined terms and adding some provisions, and eliminating aesthetic requirements. The amendment was originally developed by the Township solicitor but has since been adjusted by the Planning Commission. A “red-lined” copy of the Chapter is included in your packet for clarity of changes.

Zoning Hearing Board

The Zoning Hearing Board will consider two applications at their upcoming meeting on December 11.

- An application of Little Harvard, Inc. for a special exception, variance or other appropriate relief in order to permit construction of a two-story building located at 164 Byers Road, Chester Springs, PA, on a 2,200 square foot footprint with basement, to be used as a daycare center.
- An application of The Hankin Group for a special exception, variance or other appropriate relief from the Storage Tank limitation provisions of Section 200-90.A.(5) of the Upper Uwchlan Zoning Ordinance in order to permit an above-ground nitrogen storage tank and argon storage tank at premises it owns situate at 700 Pennsylvania Drive, Exton, PA.

Paving Change Order Calculations

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Contract paving per AIA \$120,753.00

Folk

Additional Base course
780sq.yds @ \$25/sq. yd. \$19,500.00

Folk

Additional Wearing course
1354sq.yds. @ \$12/sq. yd. \$16,248.00

Baver

Additional Labor, Material, Equipment
(Demo, Export, Stone and Prep) \$21,921.00

Credit for Reduced Base course
1050sq.yds. @ \$-3.00/sq.yd. \$-3150.00

Credit for HOP patch paving
175'X2'= 40sq. yds. @ \$-110.00/sq.yd. \$-4400.00

Spring Paving re-mobilization, prep, & tack coat
(1 mobilization, see email comment below) \$4050.00

Temporary parking lot striping (est.) \$1800.00
\$176,722.00 Total

(Overall Increase \$55,969.00)

*Estimate notes

- Paving estimates based on liquid Asphalt @ \$497/liquid ton
- Does not include applicable Bond and fees.

Re-mobilization estimate comments:

"Rough numbers for cleaning, tack coat, and trim/milling joints as needed is:

Sweeper - 8 hrs @ \$125/hr,

Trim crew - 10 hrs @ \$250/hr

Tack coat - \$300

Additional mob - \$250

Rough total of \$4050 This assumes access to the entire lot for one day.

Prepared by and, after recording, please return to:

Buckley, Brion, McGuire & Morris LLP
118 West Market Street, Suite 300
West Chester, Pennsylvania 19382
Attn: Kristin S. Camp, Esquire

UPI No. 32-3-6.37

DRAINAGE EASEMENT AGREEMENT

This **DRAINAGE EASEMENT AGREEMENT** (this "Agreement") is made and entered into this _____ day of _____, 2019, by and between **JAMES E. FEHR and JOAN E. FEHR**, adult individuals with an address of 6 Meadow Creek Lane, Glenmoore, Pennsylvania 19343 (the "Grantors"), and **UPPER UWCHLAN TOWNSHIP**, a Township of the second class organized and existing under and pursuant to the laws of the Commonwealth of Pennsylvania with a temporary address of 415 Eagleview Blvd., Suite 116, Exton, Pennsylvania 19341 (the "Grantee").

BACKGROUND

WHEREAS, Grantors are the owners of that certain 2.4 acre parcel of real property located along the north side of Meadow Creek Lane in Upper Uwchlan Township which is more particularly identified as Chester County Tax Parcel No. 32-3-6.37 (the "Grantors Property"); and,

WHEREAS, the Grantors Property is adjacent to a 1.3 acre parcel of real property located along the north side of Meadow Creek Lane at its intersection with Styer Road in Upper Uwchlan Township which is more particularly identified as Chester County Tax Parcel No. 32-3-6.38A-E (the "Township Property"); and

WHEREAS, there is located on the Township Property a wastewater treatment plant and a subsurface sewer main; and

WHEREAS, Grantors have complained about flooding on the rear portion of the Grantors Property which they allege is caused by a berm located on the Township Property which causes water to pond in the northwest corner of the Grantors Property; and

WHEREAS, the Township has agreed to install a subsurface stormwater drainage pipe (the "Pipe") on the Grantors Property and in order to do so requires a permanent easement and temporary easement over a portion of Grantors Property more particularly described herein; and

WHEREAS, Grantors have agreed to grant to the Township the necessary permanent and temporary stormwater drainage easement to allow the installation and maintenance of the Pipe;

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NOW, THEREFORE, for and in consideration of the mutual promises set forth herein, other good and valuable consideration, the receipt and lawful sufficiency of which is hereby acknowledged and intending to be legally bound hereby, Grantors and Grantee agree as follows:

1. **Incorporation of Recitals**. The recitals set forth in the Background Section of this Agreement are incorporated herein as if here set forth in their entirety.

2. **Grant of Drainage Easement**. Grantors, for and in consideration of the sum of One (\$1.00) Dollar, lawful money of the United States of America, receipt whereof is hereby acknowledged and of the advantage to them accruing and for diverse other considerations affecting the public welfare, which they seek to advance, and intending to be legally bound, have granted, bargained and sold, and by these presents do grant, bargain and sell unto the said Grantee, its successors and assigns, a drainage easement (the "Easement") twenty (20') feet in width over, under and across approximately 3,002 square feet of the Grantors Property in the location depicted on a plan prepared by ARRO dated November 15, 2019 which is attached hereto as Exhibit "A". Such conveyance includes such right, title or interest on and under the lands herein described, designated on the Plan and depicted on Exhibit "A", as is necessary to excavate, construct, install, operate, replace and maintain the Pipe and its accessories and appurtenances, together with all rights of ingress, egress and regress in, to, over, upon, through, along and from said land, necessary or convenient for the full and complete use by the Grantee, its successors and assigns, of the said Easement and right-of-way, and for the exercise of said rights and privileges to install, construct, replace and maintain the Pipe and its accessories and appurtenances, including surface markers, access manholes, valves, boxes and conduits, which rights and privileges are defined and limited as follows:

A. To the permanent occupation and use of such area aboveground and underground as is required for the construction, existence, anchorage, and support of the Pipe and its accessories and appurtenances within the Easement shown on the Plan attached hereto as Exhibit "A", together with accessories and appurtenances thereto, as well as for the accommodation of surface markers, access manholes, valves, boxes, conduits and other accessories and appurtenances; and

B. To the temporary occupation and use of such additional surface area as shall at any time or times now or in the future be reasonably required for the construction, operation, change, replacement and maintenance of the Pipe and its accessories and appurtenances; provided, however, such area shall not exceed an area of 3,293 square feet identified as the Temporary Construction Easement on a Plan attached hereto as Exhibit "B".

3. **Conditions of Grant of Easement**. The Easement is granted under and subject to the observance of the following conditions and performances of the following covenants by the Grantors and Grantee, as applicable:

A. Grantee, in the exercise of the rights herein granted, shall do so in accordance with sound engineering and construction principals, and shall perform any and all work within the area of the Easement as may be required in a careful and expeditious manner so as to create the least possible interference with the Grantors' use of the Grantors Property contained

within the boundaries of the herein granted Easement and right-of-way.

B. Grantee, promptly following or exercising any of its rights and privileges granted hereunder, shall back-fill any areas excavated, compact the ground as may be appropriate, and fully restore the surface of the ground to substantially its condition existing prior to such disturbance, including, but not limited to, seeding with grass as may be necessary to restore the surface of the Property to substantially its condition existing prior to such disturbance, or with equal surfacing of gravel, macadam, concrete, or other improved surface as to the case may be.

C. Grantee shall obtain and maintain during the entire time that it uses the Grantors Property for the purposes herein contained adequate public liability and property damage insurance policies covering any injury, death or property damage resulting in any way from the use of the Easement on the Grantors Property.

4. **Non-exclusive.** This Easement is made subject to the right of the Grantors, their successors and assigns, to the use and enjoyment of the Easement herein conveyed for any purpose not inconsistent with the use and operation of the Pipe and its accessories and appurtenances; provided, however, the Grantors, for themselves and their successors and assigns hereby covenant and agree to and with the Grantee, its successors and assigns, that no building, structure, trees, shrubbery or other impediments to the Grantee's free and unobstructed access to the Easement and Pipe therein shall be placed, located, constructed or permitted to remain on or within the area of the said Easement and right-of-way at any time.

5. **Recording.** This Easement shall be recorded in the Recorder's Office at Grantee's sole cost and expense.

6. **Governing Law; Jurisdiction; Venue.** This Agreement shall be governed and interpreted pursuant to the laws of the Commonwealth of Pennsylvania without regard to conflicts of laws principles. Each of Grantors and Grantee hereby consents to the exclusive jurisdiction of the Courts of the Commonwealth of Pennsylvania with regard to any dispute by or among Grantors and Grantee arising out of or in any manner or form related to this Agreement. Venue with regard to any such dispute shall lay, in the first instance, with the Court of Common Pleas of Chester County, Pennsylvania.

7. **Covenants Running with Land; Binding Effect.** The rights and easements established and granted under and pursuant to this Agreement shall constitute equitable servitudes upon, and shall run with and be appurtenant to, title to, and shall be a burden upon the Grantors Property and shall bind and inure to the benefit of each of Grantors and Grantee and their respective successors-in-title and assigns.

8. **Entire Agreement; No Amendment.** This Agreement represents the entire agreement of the parties hereto with regard to the subject matter hereof and may not be amended except in a writing executed by each of the parties hereto.

9. **Recording.** This Agreement shall be recorded at Grantee's cost and expense in the Office of the Recorder of Deeds in and for Chester County.

10. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument, with the same effect as if all the parties to this Agreement had executed the same counterpart

IN WITNESS WHEREOF, Grantors and Grantee executed (or caused to be executed) this Agreement the day and year first above written.

WITNESS:

GRANTORS:

James E. Fehr

Joan E. Fehr

ATTEST:

GRANTEE:

UPPER UWCHLAN TOWNSHIP

By:

Guy A. Donatelli, Chairman
Board of Supervisors

COMMONWEALTH OF PENNSYLVANIA :
ss
COUNTY OF CHESTER :

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ON THIS, the _____ day of _____, 2019, before me, the undersigned officer, personally appeared, **JAMES E. FEHR** and **JOAN E. FEHR**, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they execute the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:

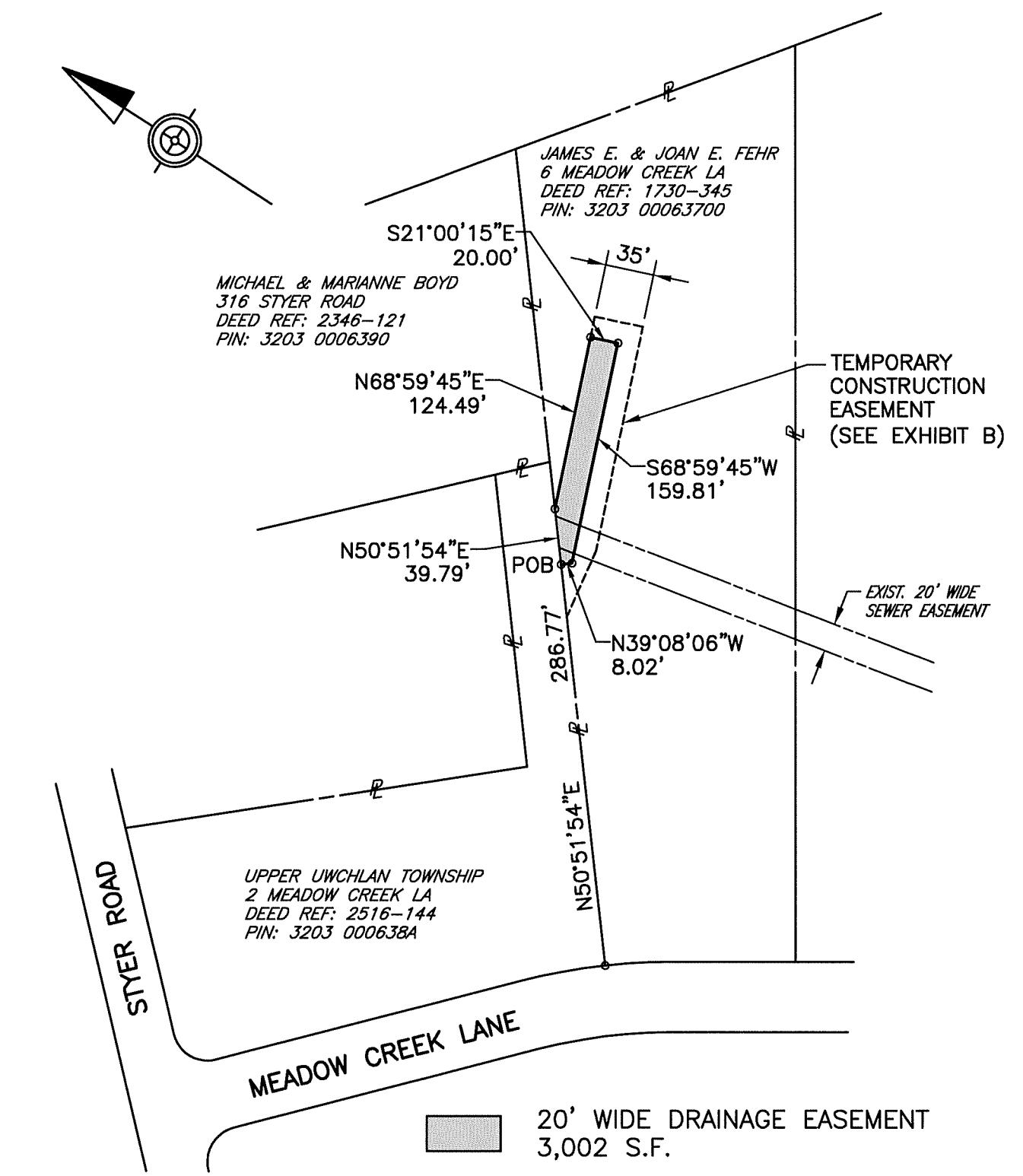
COMMONWEALTH OF PENNSYLVANIA :
ss
COUNTY OF CHESTER :

On this, the ____ day of _____ 2019, before me, the undersigned officer, personally appeared **GUY A. DONATELLI**, who acknowledged himself to be the Chairman of the Board of Supervisors of Upper Uwchlan Township, a Township of the second class organized and existing under and pursuant to the laws of the Commonwealth of Pennsylvania, and that he, as such Chairman and being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:



UPPER UWCHLAN TOWNSHIP
DRAINAGE EASEMENT
OVER LANDS OF
JAMES E. & JOAN E. FEHR

UPPER UWCHLAN TOWNSHIP, CHESTER CO, PA

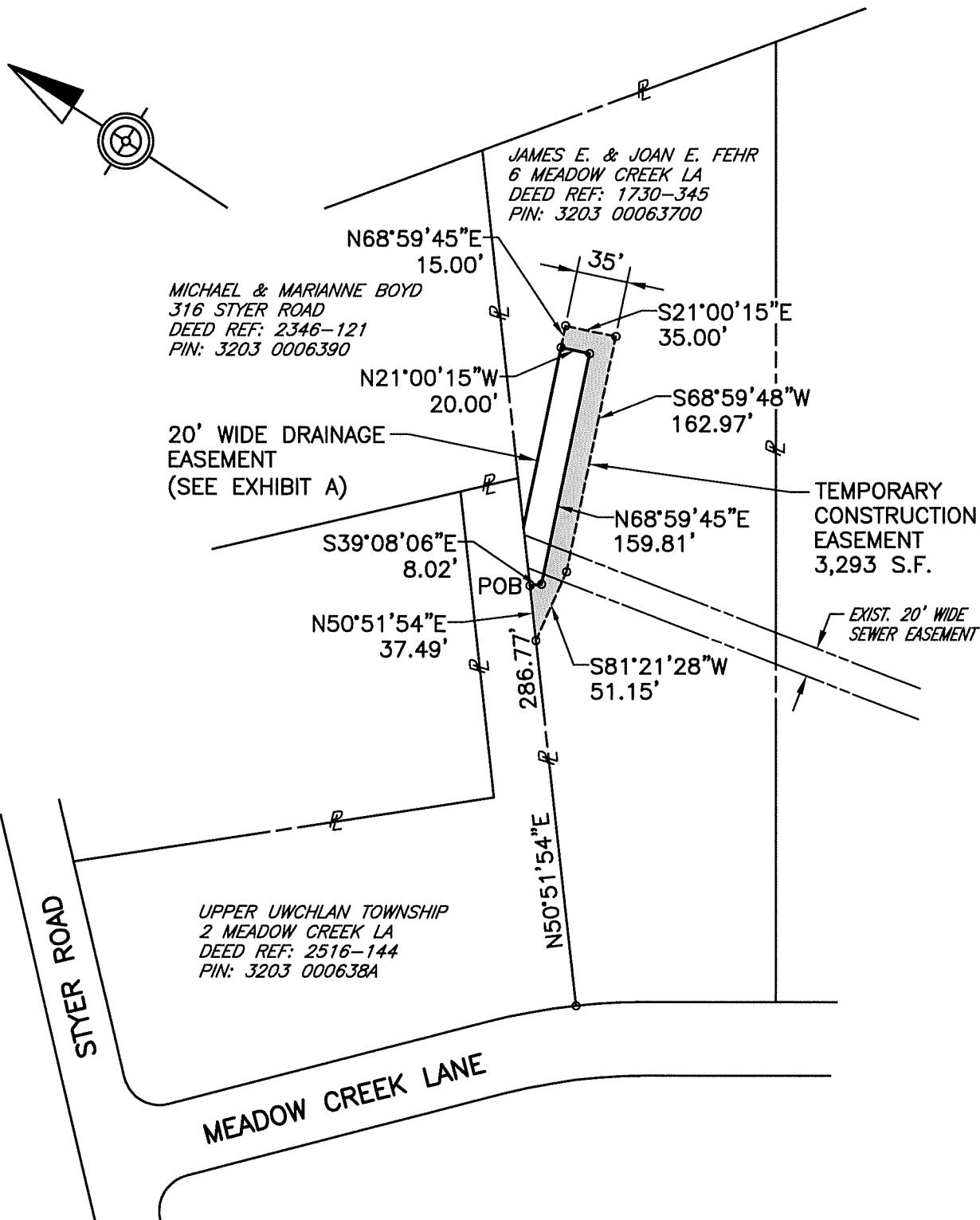
ARCO

108 West Airport Road
Lititz, Pennsylvania 17543
Tel 717.569.7021

SCALE:
1"=100'

DATE
11/15/19

DWG. NO.
EXHIBIT A



UPPER UWCHLAN TOWNSHIP
TEMPORARY CONSTRUCTION EASEMENT
OVER LANDS OF
JAMES E. & JOAN E. FEHR
UPPER UWCHLAN TOWNSHIP, CHESTER CO, PA

ARCO

108 West Airport Road
Lititz, Pennsylvania 17543
Tel 717.569.7021

SCALE: 1"=100'	DATE: 11/15/19	DWG. NO. EXHIBIT B
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UPPER UWCHLAN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

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ORDINANCE NO. _____

**AN ORDINANCE OF UPPER UWCHLAN TOWNSHIP AMENDING
THE POLICE PENSION PLAN, SPECIFICALLY THE DEFERRED
RETIREMENT OPTION PROGRAM ("DROP") TO EXTEND THE
TIME FOR AN OFFICER WHO HAS OPTED TO PARTICIPATE IN
THE DROP PROGRAM TO RESIGN FROM EMPLOYMENT WITH
THE POLICE DEPARTMENT FROM FOUR YEARS TO FIVE
YEARS FROM THE DATE OF OPTING INTO THE DROP
PROGRAM.**

WHEREAS, in Ordinance No. 07-04, the Board of Supervisors of Upper Uwchlan Township (the "Board") adopted a Police Pension Plan; and

WHEREAS, in Ordinance No. 2015-02, the Board amended the Police Pension Plan to add a new Article IV titled, "Retirement Benefits" to establish and implement a Deferred Retirement Option Program ("DROP") pursuant to the authority in Act 44 of 2009; and

WHEREAS, the Board approved a Collective Bargaining Agreement ("CBA") with the Upper Uwchlan Township Police Association on October 8, 2019, which will be effective January 1, 2020; and

WHEREAS, the Board agreed in the new CBA to increase the time for a police officer who has elected to participate in the Act 44 DROP Program to work before he or she must resign from four years to five years from the police officer's effective date of electing to participate in the Act 44 DROP Program; and

WHEREAS, the Board desires to amend the Police Pension Plan to be consistent with the terms of the new CBA with respect to the Act 44 DROP Program;

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of Upper Uwchlan Township, that Article IV of the Police Pension Plan titled, "Retirement Benefits" shall be amended as follows:

SECTION 1. Paragraph 4 of Article IV shall be amended to read as follows:

"4. Written Election. Eligible Officers who wish to be Participants in the ACT 44 PROGRAM must signify that intention in writing as follows:

A. A Police Officer electing to participate in the ACT 44 PROGRAM must complete and execute an "ACT 44 PROGRAM Participation Election

Form" prepared by the Township, which shall evidence the member's election to participate in the ACT 44 PROGRAM. The form must be signed by the Police Officer and be notarized and submitted prior to the date on which the member wishes ACT 44 PROGRAM participation to commence. The ACT 44 PROGRAM Participation Election Form shall include an irrevocable notice to the Township, by the Police Officer member, that the Police Officer shall resign from employment with the Police Department effective on a specific date (the "resignation date") that is no later than **five (5) years** from the effective date of the ACT 44 PROGRAM Election Form. A Police Officer shall cease to work as and may no longer be employed as a Police Officer on the officer's resignation date, unless the Township properly terminates or honorably discharges the officer prior to the resignation date. A participant may resign from employment while in ACT 44 PROGRAM status, which shall terminate his/her participation in the ACT 44 PROGRAM.

B. In addition to the above information, the ACT 44 PROGRAM Participation Election Form shall also advise the employee of the following: (1) an explanation of the Participant's rights and obligations while in ACT 44 PROGRAM; (2) that, as a condition of ACT 44 PROGRAM participation, the Participant foregoes active participation in the Police Pension Plan and foregoes any recalculation of pension benefits to include salary increases occurring after ACT 44 PROGRAM participation commences; and (3) that the ACT 44 PROGRAM Participant's service while in ACT 44 PROGRAM will not count as pension service nor will it entitle a participant to any service increment benefits to which the Participant was not entitled prior to commencing ACT 44 PROGRAM participation. An ACT 44 PROGRAM Participant must also complete any and all retirement documents required by the Police Pension Plan Administrator, and such documents must be filed and presented to the Township for approval of retirement and payment of pension. Once an ACT 44 PROGRAM Participation Election Form has been approved by the Township, it is irrevocable.

Likewise, once an ACT 44 PROGRAM Participant enters the ACT 44 PROGRAM, the Participant may not subsequently leave and then re-enter the ACT 44 PROGRAM, even if the employee separates from employment and subsequently begins employment with the Township again."

SECTION 2. All other terms and provisions of the Police Pension Plan as adopted in Ordinance 2015-02 shall remain in full force and effect.

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.

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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 _____, 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
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.

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- 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.

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- 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)^[1] 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

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 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.

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§ 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.

BC. 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.

CD. 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.
 - (1)(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.
 - ED. 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 chaptersection.
- 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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(22) 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.C. Ground-mounted systems.

~~(4) 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.

§ 77-16. 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)¹¹ 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.¹²

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.

E-B-

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

F-C-

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-D-

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

H-E-

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.

§ 77-9. Exceptions.

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

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