

UPPER GWYNEDD TOWNSHIP BOARD OF COMMISSIONERS

BOARD OF COMMISSIONERS SPECIAL MEETING MINUTES

June 7, 2022 at 7:00 pm

This meeting was held in person at the Township and live streamed on our website at www.uppergwynedd.org

1. Call to order

The June 7, 2022, Special Meeting of the Upper Gwynedd Township Board of Commissioners was called to order by President of the Board, Denise M. Hull at 7:00 PM. This meeting was recorded and visually taped.

2. Pledge of Allegiance

The Pledge of Allegiance was led by Deanna Logan.

3. Roll Call

Roll call was taken by Deanna Logan, Administrative Assistant to the Township Manager. The individuals in attendance were:

Denise M. Hull	President
Katherine D. Carter	Vice President
Martha A. Simelaro	Commissioner
Liz K. McNaney	Commissioner
Ruth S. Damsker	Commissioner
Sandra Zadell	Township Manager
Megan Weaver	Assistant Township Manager
Lauren Gallagher	Township Solicitor
Isaac Kessler	Township Engineer
David Duffy	Chief of Police
E. Van Rieker	Zoning Officer
Andreas Heinrich	Traffic Engineer

4. Announcement of Executive Sessions

Ms. Gallagher said the Board met in Executive Session on May 25th to discuss matters of personnel and prior to this meeting to discuss potential litigation.

5. Public comments and concerns – non agenda items only (limit of five minutes per individual)

Raphael Ocasio, 288 Bradford Lane is looking for a no parking sign in front of his driveway to prevent people from blocking his driveway. Mr. Ocasio gave his information to staff, and someone will contact him to discuss this further.

Mrs. Hull suspended the public meeting and opened the public hearing.

6. Public Hearing – Ordinance 2022-03

The purpose of this hearing is to hear comment pursuant to the consideration of Ordinance 2022-01, amending the code of Upper Gwynedd Township at Chapter 195 – "Zoning," Section 5 – "Zoning Map," and amending the Zoning Classification of the following Montgomery County Tax Parcel: 56-00-05847-00-1 from LI – Limited Industrial Zoning District to the IN – Institutional Zoning District.

Brief explanation by Lauren Gallagher, Township Solicitor

Ms. Gallagher reminded everyone that we have a court reporter and not to speak over each other and gave the rules of speaking during public comment. She then read the above purpose of the meeting and entered the following exhibits into record.

Exhibits: **(see attached record)**

- T1: Zoning Application
- T2: Ordinance 2022-03
- T3: Proof of Publication of Legal Advertisement – May 18 and May 25, 2022
- T4: UGT Planning Commission Review Letter
- T5: Montgomery County Planning Commission Review Letter
- T6: Township Traffic Engineer Review Letters
- T7: UGT Planning Commission Minutes of February 9, March 9 and April 13, 2022
- T8: Zoning Verification Posting Notice
- T9: Notice to Residents

Ms. Gallagher also entered the applicants exhibits into record **(see attached record)**

- A1: Map of current and proposed zoning
- A2: Existing Land Use
- A3: Recorded Land Development Plan
- A4: Playground area
- A5: Traffic Planning and Design Report of April 5, 2022
- A6: Matthew Hammond Curriculum Vitae
- A7: Charles Guttenplan Curriculum Vitae
- A8: Restrictive Covenant to the benefit of Upper Gwynedd Township, 1988

Presentation by MCIU by Marc Davis, attorney for the applicant MCIU **(see Court Report for complete testimony)**.

Mr. Davis stated the request is for property on Morris Road, consisting of 5.5 acres. Mr. Davis distributed exhibit books for the Board. He said this is for a change of zoning from LI (Limited Industrial) to I (Industrial). We will present four (4) witnesses regarding the planning and what the change of zoning will do. He reminded everyone that this is a legislative hearing that the Board has a lot of discretion. Mr. Davis called his first witness. All witnesses were sworn in by Marc Manjardi, Court Reporter.

1. Charles Guttenplan, independent land planner. Mr. Guttenplan explained what is shown in exhibits A1 – A3. He stated that he believes this is a logical plan and recommends the rezoning of the property.
2. Bradley Landis, Public Education Professional, assistant superintendent at the MCIU. Dr. Landis explained what an intermediate unit is and what it provides to the community. Services will be provided for 3- 5-year-old children as well as 10 – 20 students who are special needs students that are transitioning to independent living. Hours of operation are staggered with times beginning at 8 am with the last group leaving at 3:45 pm with staff arriving at 7:30 am and leaving at 4:15 pm. This facility will serve the North Penn and Souderton communities. The facility will have limited use during the months of June, July and August with no evening and weekend use. Playground use would be staggered by classroom with approximately three (3) sessions to accommodate the students.
3. Alfred Howard, MCIU, Director of Facilities and Operations. The draft of the playground will be at the backside of the building closer to the building and away from neighboring properties to maintain a buffer. The playground will be a fenced yard.
4. Matthew Hammond, Traffic Planning & Design, Executive Vice President. He analyzed the existing site and the proposed plan with regards to traffic. Traffic counts on Morris Rd. were considered and increased based on future growth and were compared with a similar facility as the facility currently is at less than half capacity.

Driveways were analyzed based on Mr. Heinrich's comments and PennDOT recommendations. He addressed Mr. Heinrich's comments to his analysis and applicant will comply. Because Morris Rd. is a state road, the MCIU will have to comply with any conditions imposed by PennDOT.

Mrs. Hull recessed the meeting for 5 minutes.

5. Andreas Heinrich, UGT Traffic Engineer. The traffic analysis was reviewed and the MCIU has agreed to all comments, but PennDOT has the final say with regards to traffic. Mrs. Hull asked what percentage of traffic will be increased with the MCIU. Table 3, Tab 4, Page 5 of the traffic report compared the trip generation with its current use and with the MCIU. The MCIU will generate a decrease in traffic over the course of a weekday. It will generate more during the AM peak but less during the PM peak hours.

Mrs. Hull asked if this will affect the amount of money collected for taxes. Mr. Davis said the MCIU is tax exempt and will result in a decrease of several thousand dollars to the Township but will still collect taxes from the commercial side of the property.

Mrs. Hull asked can the MCIU apply for other grants that may increase the number of children serviced at this location? Dr. Landis said there is a limit to the number of children that are permitted by square footage, but he was unable to give an estimate of the maximum number of children because of the diversity of classroom settings. Valentina Vileto, Esq. Director of Community & Government Relations for the MCIU, said grants for state funding are limited in number to the students that are eligible for service. Significant increases in counts are not anticipated in the near future. Mr. Davis said there is a Restrictive Covenant in place for the property.

Mrs. Hull asked why the MCIU isn't purchasing property in the North Penn School District. Mr. Davis replied there isn't anything available and this property is attractive to the MCIU. She also asked if there are plans for the planting of additional trees. Mr. Davis said there no plans to plant trees, but buffering may be added.

Mrs. Hull called E. Van Rieker for questions. She asked if this is considered spot zoning? Mr. Rieker replied that this would not be considered spot zoning. She asked if the two (2) deed restrictions will remain in place. He said both deed restrictions will remain in place until both parties agree to amend them. Ms. Gallagher said the restrictions can only be removed with Board approval.

Mrs. McNaney asked Mr. Rieker if any other businesses have approached him with interest. He said there were two (2) requests for mini storage facilities. Mrs. Simelaro asked about the height of the fence. Mr. Howard replied that the fence would be 4' in height with monitors at entrances/exits. Mrs. Carter asked if the atrium would remain to which Mr. Davis replied yes it will be used. She asked who will maintain the stormwater basin. Dr. Landis said the MCIU will be responsible for it. Mrs. Damsker about the number of students on the playground. Dr. Landis said about three (3) groups of forty (40) students will use the playground over the course of one- and one-half hours.

Mrs. McNaney asked Chief Duffy about traffic. Chief Duffy replied there were no accidents or complaints of speeding in the area over the last several years.

7. Request for public comment

Ms. Gallagher reiterated the rules for public comment. All questions will be addressed at the end of public comment.

Mr. Michael Yanoff, attorney representing the Reserve at Gwynedd residents, said this hearing is a violation of due process as there was no opportunity for cross-examination or to present opposing evidence. He submitted a petition that was signed by over one hundred (100) residents and asked that it be part of the record. He said this zoning change only benefits the MCIU and not Upper Gwynedd Township.

The petition will be marked as Yanoff 1. **See court report**

Kacie Moore, 2260 Bethel Road, lives adjacent to property and said there is a lot of traffic on Morris Rd. and there has been an increase in traffic over the last five (5) years and said additional traffic would not be good and would create an unsafe environment for the students. She asked if there will be a school zone placed on Morris Road?

Elizabeth Organt, 473 Primrose Dr. is concerned about traffic and safety. She asked where the landscapers will park because they currently park in the center lane on Morris Road. She presented a picture of a parked landscaping vehicle in the center lane.

This will be marked as Organt 1. **See court report**

Lou Ellen Fillinich, 481 Primrose commented that Morris Road is heavily trafficked and unsafe. She asked how would you will feel if one of the children gets hurt as a result of the traffic?

Albert Federico, traffic consultant for the Reserve at Gwynedd said compared to the existing use, the proposed change will generate significantly more traffic during the morning and afternoon peak hours. Mr. Federico presented a traffic report on behalf of the Reserve at Gwynedd residents.

The Traffic Study be marked as Federico 1. **See court report**

Murray Ufberg, 477 Primrose Drive commented about the lack of due process. He said there is no limitations on the use of the property by the MCIU and the number of students can increase significantly. This can adversely affect the lives of the surrounding residents with dire consequences. He added the proposal will affect property values.

Bill Del Collo, 479 Primrose Drive asked the Board to deny this request as it is not about the children but is about traffic and safety. He is concerned that emergency vehicles will not have immediate access to the Reserve because of the impact of additional traffic.

Mary Laufbaum, 2305 Lilac Court said she is in favor of the MCIU proposal as her daughter Jill was part of a head start group and hopes the residents at the Reserve at Gwynedd will volunteer their time at the school if the plan proceeds.

John Henry, 4304 Lilac Court, wants to hear everything before making a comment.

Sue Samuels, 509 Jasmine Circle, said this is not about the students, but about the traffic and safety issues. She added she can't imagine how there will be less traffic without having the ACTS offices. She is concerned about the heavy traffic on Morris Road and is concerned about the safety of the children and for emergency vehicles.

Dave Foster, 475 Primrose Drive, asked if anyone from the Board drives Morris Road in the morning? He commented on the heavy morning traffic.

Richard Karakantas, 472 Primrose Dr. doesn't understand the MCIU traffic study that says there will be a reduction in trips generated. He is concerned that there isn't a limit to the number of students permitted at the school.

Dan Wallace, 848 Girard Ave. submitted his comments via email. I support the rezoning of the former ACTS building on Morris Road for conversion to MCIU offices. This is an appropriate re-use of the facility for the students and staff, some of whom may be Township residents. I ask that the Commissioners vote to approve this request and move the project forward.

Mrs. Hull addressed the questions posed during public comment.

1. Will there be a school zone? Mr. Hammond replied no
2. How will we know what PennDOT will be proposing? Mr. Hammond replied that the information will be provided to the Township. PennDOT has a Highway Occupancy Permit that the applicant must comply with. Mr. Heinrich replied that once it is in PennDOT's system, the property owner must comply with all PennDOT conditions. He also said a school zone requires a different PennDOT permit and finds it unlikely that PennDOT will approve this.
3. How will there be less traffic for this use? Mr. Heinrich replied that there is an increase in traffic during peak morning and early afternoon times and less traffic during the other hours. Mr. Hammond clarified the traffic patterns if the building was at maximum capacity as an office building. Mr. Rieker added that the Township requires a Use and Occupancy permit and is conditioned upon a Highway Occupancy Permit that is issued by PennDOT and any changes need to be reevaluated by the Township.
4. Mrs. Hull asked Ms. Villetto if the MCIU will seek to increase the number of students if the tenant left. Mrs. Hull also asked if it is possible to have four hundred (400) students at the school to which Dr. Landis said it is impossible based on the square footage of the building. Dr. Landis said if the current tenant left, we would seek another tenant. Dr. Landis said we have been holding steady at three thousand (3000) students in the system in Montgomery County and the Head Start Program is locked into the same number of students for the next 5 years. Dr. Landis said we do not foresee having additional students at this site.

Mrs. McNaney asked if there is a Fire Marshal report and about access for emergency vehicles. Mrs. Zadell said the Fire Marshal report is not required as this is not a land development. Chief Duffy said there has not been an issue with emergency response to the Reserve at Gwynedd. Ambulances average seven (7) minutes response time and police average five (5) minutes. Mrs. Hull asked about permits. Mr. Rieker said permits will be required by the MCIU and Mr. Heinrich will review the parking and traffic for the plan.

John Henry, 4304 Lilac Court, commented that there is an emergency entrance and exit that is adjacent to building 6000 at the Reserve at Gwynedd.

Mrs. McNaney commented that this is not a done deal, and the Board has been listening to all the residents' comments. She commented that Mrs. Hull visited the Reserve residents to get their feedback about the proposal.

8. Close of Public Hearing

Mrs. Hull closed the Public Hearing and asked if the Board had any further comments. Mrs. Carter has some concerns about the traffic. Mrs. Simelaro thanked the applicant and residents for coming out and expressing their opinions and added that we review all the information to render the best decision for the Township. Mrs. Damsker said she lives at the Reserve at Gwynedd and knows that the residents care about the children. She added that there is a need for the children to have a place to go. Mrs. Hull said the petition that Mr. Yanoff submitted was given to the Township in March. There were seventy-four (74) homes represented on the list. She spoke with residents at thirty-nine (39) of those homes during a recent visit and said (twenty-one) 21 of those homes were no longer opposed but fourteen (14) homes were definitely opposed and four (4) homes that were on the fence about the issue. Mrs. Hull said we go door to door to connect with the residents and understand how residents feel about the issues as a public meeting can be intimidating to residents. The Board held this special meeting just to hear this matter so the Reserve residents could have their voices heard and understand their perspective. Other Commissioners have spoken with residents about the issues surrounding this plan. Mrs. Hull added we involve residents in any land development in a very significant way. She said as a Board, one of our highest priorities is making sure all of our residents feel heard and represented by us. We work very hard as a board to make local accessible to everyone and transparency is a high priority for us. She added that she considered all the pros and cons of the proposal.

9. Motion to deny Ordinance 2022-03 / Motion to approve Ordinance 2022-03

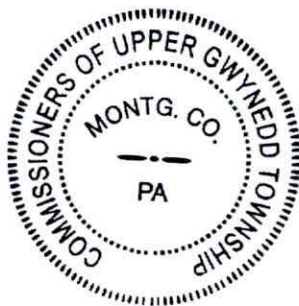
Mrs. Hull asked for a motion to approve Ordinance 2022-03.

Hearing no public questions or comments, upon motion by Mrs. Simelaro, seconded by Mrs. Damsker, the motion to approve Ordinance 2022-03 was approved unanimously.

Mrs. Zadell clarified that the Ordinance was approved unanimously by all five Commissioners.

10. Call for Adjournment

Mrs. Hull adjourned the meeting at 10:38 pm.



Respectfully Submitted,

Sandra Brookley Zadell
Secretary

Approved July 19, 2022