

# WESTTOWN TOWNSHIP PLANNING COMMISSION MEETING AGENDA

Wednesday, September 4, 2024 – 7:00 pm

Stokes Assembly Hall – Township Administration Building  
1039 Wilmington Pike, West Chester, PA

For general inquiries or questions about any of the items on this agenda, please contact the Township office either by phone (610) 692-1930 or via e-mail at [administration@westtown.org](mailto:administration@westtown.org).

## **Call to Order and Pledge of Allegiance**

## **Adoption of Agenda**

## **Approval of Minutes**

1. Planning Commission Meeting August 7, 2024
2. Planning Commission Meeting August 21, 2024

## **Announcements**

## **Public Comment – Non-Agenda Items**

## **New Business**

### **1. Ordinance Amendments – Development Near Transmission Pipelines**

There are no provisions in the Township Code pertaining to setback parameters for new developments or redevelopments in proximity to existing transmission pipelines. Sample ordinance language has been developed by Gaadt Perspectives, LLC for this region, which is supported by the Chester County Planning Commission. The Commission's feedback is requested whether it is something to consider for Westtown.

## **Old Business**

### **1. Ordinance Amendments – Fences**

Recommended ordinance amendments to Section 1505, Fences and walls, of the Township Zoning Code include modified height and setback requirements, additional provisions for fence foundation, fence gates and open fences, standards for garden fences, and modifications to permit submission and maintenance requirements. The Commission's feedback is requested on proposed language.

## **Public Comment**

## **Reports**

1. Board of Supervisors Meeting September 3, 2024 – Jim Lees/Russ Hatton

## **Adjournment**

Next PC Meeting:

- **September 18, 2024, 7:00 PM**

PC Representative at next Board of Supervisors Meeting:

- **Monday September 16, 2024, 7:30 PM** – Brian Knaub/Joe Frisco

# WESTTOWN TOWNSHIP PLANNING COMMISSION MEETING MINUTES

Stokes Assembly Hall, 1039 Wilmington Pike  
Wednesday, August 7, 2024 – 7:00 PM

## **Present**

Commissioners Russ Hatton (RH), Tom Sennett (TS), Brian Knaub (BK), and Joseph Frisco (JF). Absent were Jack Embick (JE), Jim Lees (JL), and Kevin Flynn (KF). Township Manager and Director of Planning & Zoning Mila Carter was also present.

## **Call to Order and Pledge of Allegiance**

Mr. Hatton called the meeting to order at 7:02 PM.

## **Adoption of Agenda (TS/JF) 4-0**

Mr. Sennett made a motion to adopt the agenda. Mr. Frisco seconded. All were in favor of the motion.

## **Approval of Minutes (TS/BK) 4-0**

Mr. Sennett made a motion to adopt the meeting minutes from July 17, 2024. Mr. Knaub seconded. All were in favor of the motion.

## **Announcements**

None.

## **Public Comment – Non Agenda Items**

None.

## **New Business**

### **1. Land Development Application – 1502 West Chester Pike**

Mr. Hatton stated that the applicant, Westtown AM West TIC, LLC, has submitted a land development application for construction of a 3,294 square foot bank with drive-thru, parking, lighting, landscaping, and other improvements at the Westtown Marketplace shopping center. He further provided that the property is located in the C-1 Neighborhood and Highway Commercial Zoning District and consists of 18.45 acres. Mr. Hatton noted that the property is improved with a 1-story building with grocery store, retail stores, restaurants, shops for personal service, a 1-story freestanding masonry building, parking areas, and stormwater management facility. He pointed out that banks and similar financial institutions are permitted by right in the C-1 Zoning District.

Gregg Adelman, the applicant's attorney, recapped that the Commission has seen this application in various forms over the past year. He stated that the applicant submitted an application to the Zoning Hearing Board (ZHB) to seek variances, some of which were granted, and others were denied. Mr. Adelman explained that the applicant provided a parking analysis to the ZHB for the overall shopping center to receive a relief from the number of parking space requirements, but that was denied. He noted that subsequently, the Township modified the off-street parking ordinance to address various parking related issues, including the permitted reduction of the required amount of parking spaces for existing shopping centers, which allowed for this land development application to move forward.

Mr. Adelman summarized the overall site plan for a drive-thru bank to be located in front of the Giant grocery store in the northeastern corner of the property. He described the overall movements around the proposed building, which were previously discussed with the Commission, and noted that the plan was modified to create a one-way circulation coming

out of the drive thru, as opposed to originally proposed two-way circulation. Mr. Adelman further pointed out that the ZHB denied the variance request for trash container in terms of setback from side property line; therefore, the applicant proposes to store trash indoors until scheduled pick up. He referred to the site plan that displayed two drive thru lanes at the rear of the building, required amount of parking spaces, ADA complaint parking and access, and subsurface stormwater basin. Mr. Adelman noted that preliminary infiltration testing has not been done yet, but he intended for the proposed stormwater facility to be compliant with the Township ordinances. He described proposed landscaping and lighting around the property. He anticipated the applicant might need several waivers pertaining to landscaping requirements. He provided an example of the requirement for planting tall trees at the entrance, which for security reasons and to maintain a clear line of sight were not desirable by the bank. Mr. Adelman further noted that the applicant is not proposing any trees along West Chester Pike, which is required by the ordinance. He argued that due to grade differential, planting trees will not create the street tree effect that the Township might be looking for and reasoned there were no plantings along West Chester Pike anywhere in the shopping center.

Mr. Adelman added that the applicant intends on requesting a waiver to review preliminary and final land development applications simultaneously and that a traffic impact study was in the works. He explained that the applicant's engineer has been in contact with the Township traffic consultant to receive feedback whether such study is really necessary for this project and whether there was anything specific that the applicant should be looking at from traffic standpoint. He provided one suggestion to optimize the signal timing for traffic exiting the shopping center and traveling west on Route 3, which would require analysis of traffic counts to determine the total green time and the queue study. Mr. Adelman recapped that the applicant submitted an overall parking trip generation study that demonstrated parking availability on the site which was as expected. He acknowledged that the applicant received review letters from the Township consultants, and wanted the Commission's feedback on a discussion involving the existing bus stop at the shopping center.

Mr. Adelman referred to the site plan that showed a bus stop on the other side of the center, which has no impact on the proposed bank. He noted that there were no pedestrian facilities from the subject bus stop to cross to West Chester Pike, where another bus stop is located. He acknowledged that the Township would like the applicant to create pedestrian connection from the center to the bus stop, and pointed out the existing pedestrian facilities on the site along the frontage of the building and the lack of those across the parking lot areas. Mr. Adelman believed that the applicant was open to evaluating a connection between the edge of the parking lot and the bus stop. Mr. Adelman asked Ms. Carter to bring up Google street view of the shopping center. He indicated the grade differential between West Chester Pike, the bus stop, and the edge of parking area, and a lack of sidewalks within and adjacent to the center. He felt that some sort of a switchback might be possible to provide the ability for people to at least walk from the shopping center right up to the bus stop. The Commission members brainstormed various ideas. Mr. Sennett commented that a lot of people use the bus stop to get into the center and he has observed a lot of pedestrian traffic all over the parking lot, and felt that any improvement, like a walkway or stairs, would be beneficial. Mr. Adelman noted that stairs would trigger an ADA analysis, thus, a ramp might be more doable. He agreed to have the applicant look into potential options.

Mr. Sennett asked whether the applicant had any concerns over the review letters. Tom Newman, the applicant's engineer, provided that he was working with the Township's engineer on addressing the outstanding items. Mr. Adelman added that based on the infiltration testing results, the stormwater facility might be revised and relocated in another area of the center.

Mr. Frisco suggested that the applicant consider some sort of landscaping along West Chester Pike for aesthetic purposes. Mr. Adelman agreed to consider it.

Mr. Hatton asked about the sanitary sewer connection. Mr. Adelman referred to the site plan that shows a sanitary sewer line running under the parking lot all the way behind the Giant.

Mr. Hatton suggested to consider some sort of markings from Giant to the area of the parking lot where the new building is proposed. Mr. Adelman suggested to potentially add a crosswalk and maybe look into creating a pedestrian plan, but suspected that the only option was to utilize the landscaping islands. Mr. Sennett noted that the existing islands are not very wide. The Commission discussed that the addition of pedestrian facilities across parking areas might require taking down trees and further reducing parking spaces. Mr. Knaub felt that it might be a waste of money to implement some of these pedestrian connectivity ideas.

Mr. Hatton asked about signage. Mr. Adelman believed there would be a wall sign, some directional signage, and one on the shared freestanding sign for the center. He stated that the applicant intends to come back before the Commission when outstanding items as per review letters and tonight's discussion have been addressed.

### **Old Business**

None.

### **Public Comment**

None.

### **Reports**

1. Ms. Carter gave the report from the August 5 BOS meeting.

### **Adjournment (TS/JF) 4-0**

The meeting was adjourned at 7:50 PM.

Next PC Meeting:

- **August 21, 2024, 7:00 PM**

PC Representative at next Board of Supervisors Meeting:

- **Monday August 19, 2024, 7:30 PM** - Jack Embick/Tom Sennett

Respectfully submitted,  
Mila Carter  
Planning Commission Secretary

# WESTTOWN TOWNSHIP PLANNING COMMISSION MEETING MINUTES

Stokes Assembly Hall, 1039 Wilmington Pike  
Wednesday, August 21, 2024 – 7:00 PM

## **Present**

Commissioners Russ Hatton (RH), Tom Sennett (TS), Brian Knaub (BK), Jack Embick (JE) and Jim Lees (JL). Absent were Joseph Frisco (JF) and Kevin Flynn (KF). Township Manager and Director of Planning & Zoning Mila Carter was also present.

## **Call to Order and Pledge of Allegiance**

Mr. Hatton called the meeting to order at 7:02 PM.

## **Adoption of Agenda (TS/JL) 5-0**

Mr. Sennett made a motion to adopt the agenda. Mr. Lees seconded. All were in favor of the motion.

## **Approval of Minutes**

Motion was tabled until the next meeting due to lack of a quorum to adopt the minutes.

## **Announcements**

None.

## **Public Comment – Non Agenda Items**

None.

## **New Business**

### **1. Ordinance Amendments - Signage**

Mr. Embick stated that Advent Lutheran Church and Westminster Presbyterian Church would like to replace their existing freestanding signs with digital displays, and explained that digital displays are only permitted on lots with a principal educational or school use; therefore, the applicants requested an ordinance amendment to similarly allow digital displays on lots with religious use. He noted that Watchfire Signs set up a digital sign demonstration on the parking lot.

Mr. Crum, representative with Advent Lutheran Church, and on behalf of Westminster Presbyterian, provided some background, highlighted partnerships and the involvement of both churches in the community, shared pictures of existing signs, and sketches of new signs with digital displays. He stated that their existing signs are outdated and require manual change of letters, which is challenging and time consuming. Mr. Crum noted that Advent's congregation has already raised the funds, not realizing that digital displays are not permitted under current zoning. He added that both congregations were requesting that the Township consider the proposed amendment to include "or religious" under Section 170-1812.D(4)d. Mr. Embick explained that the Township can only control the elements of signage, such as location, size and brightness, and not the content. Mr. Crum clarified that Advent Lutheran proposes to replace the sign face with digital display and retain the overall structure, while Westminster Presbyterian proposes to replace the sign in its entirety.

Mr. Sennett felt that regulation of signage is largely aesthetic and subjective, and explained that makes it challenging to regulate, so and that the easiest thing to do is not to allow for it. Ms. Hannah, representative with Watchfire Signs, believed that digital displays are seen as ostentations or offensive when not properly regulated. She noted that Watchfire assists municipalities with their codes, and that their signs are equipped with automatic dimming and software controls, which are preset at the factory before displays are shipped. Ms. Hannah felt that presetting helps municipalities govern the signs. She cautioned that not all manufacturers provide such capability. She also noted that Watchfire follows the International Sign Association

and the Outdoor Advertising Association regulations, and other studies pertaining to signage. Mr. Sennett asked to clarify what they are. Ms. Hannah explained that the company relies on these generic guidelines to come up with what they consider right for readability and safety.

Mr. Sennett inquired about signs installed by Watchfire in Westtown or adjacent communities. Ms. Hannah could not provide examples, but offered to look into that. Mr. Lees asked about modifications to the existing sign structures. Mr. Crum noted that the sign structure for Advent Lutheran will remain, but the manual changeable display will be replaced with a digital of the same size. He stated that a completely new sign will be installed for Westminster Presbyterian. Mr. Lees asked whether the signs would be double faced. Mr. Crum confirmed they would be.

Mr. Embick asked about the difference between electronic and digital signs. Ms. Hannah believed there was no difference. Mr. Hatton inquired about the messages. Mr. Crum responded that the intent was to advertise meetings, events, and other activities happening at the church. Mr. Hatton asked whether other businesses would be permitted to use the signs for advertisement. Mr. Crum said they would not. Ms. Hannah also provided that displays can be used for emergency notifications. Ms. Hannah added that many municipalities have a requirement to register with the Federal Emergency Management Agency's (FEMA) Integrated Public Alert and Warning System (IPAWS) and state police to get those notifications. Mr. Knaub asked whether it was common. Ms. Hannah responded that it was largely requested by municipalities.

Mr. Embick asked whether the proposed signs comply with all current zoning standards for digital signage, or if any changes to other provisions are needed. Ms. Carter stated that calculations on size and verification that digital displays meet illumination and setback requirements should still be provided. Mr. Embick asked whether the Commission should consider incorporating above mentioned items into the sign ordinance. Ms. Carter believed that it would be worthwhile to look into industry guidelines for digital displays that Ms. Hannah described. Mr. Embick expressed concern that it was easy to become a church and then to apply for a digital sign. He felt that proposed signs were not objectionable, but he was concerned with the impact of proposed changes. Ms. Carter pointed out that religious use is only permitted within specific zoning districts and suggested to add provisions limiting the installation of digital displays on lots located along major roadways.

Mr. Embick asked whether digital signs create more distraction to motorists as compared to non-digital signs. Mr. Crum pointed out there are already digital signs in the Township, and the proposed displays would be 3 by 7 feet and 4 by 6 feet. Mr. Embick inquired about safeguards against malware attacks. Ms. Hannah explained that Watchfire has its own proprietary software that is approved by the governments and their communication is done through modems with all security protocols in place.

Mr. Embick wondered about displays' impact on the environment and wildlife. Leah Hrachovec, Pastor with Westminster Presbyterian, explained that these signs use less electricity and will be turned off overnight. Mr. Sennett asked about target audience. Mr. Crum explained that they wanted to attract public interest in community activities. Chris Frantz, Pastor with Advent Lutheran, noted that several partners contributed towards the displays, due to value they bring in reaching out to broader community.

Mr. Embick wondered about scenic implications such as blocking of views and vistas, and the impact on neighbors. Mr. Frantz didn't believe there would be any negative impacts. Mr. Lees asked about potential of vandalism. Mr. Frantz provided there was none and attributed it to the light emitted by the signs. Ms. Hannah added that the signs will be set to turn off at specific time to reduce light pollution. Mr. Embick asked whether the applicants would be in agreement with a requirement of a cessation of light from the sign at a particular hour. Ms. Hannah agreed.

Mr. Pomerantz, 1005 Robin Drive, questioned rationale behind the limitations of digital displays and expressed his support for the proposed signs that he believed would be elegant and simple. He also suggested contacting the Westtown-East Goshen (WEGO) Police Chief to get her feedback. Mr. Sennett expressed that there seemed to be a considerable amount of resources available for the Commission to explore in detail, including work done by other municipalities on this subject matter, but this research would require time.

The Commission and meeting attendees left the meeting room to look at the digital display presented outside. Mr. Patel, 811 E Sage Road, made a suggestion that the main items to consider when it comes to digital displays are message duration, illumination, brightness, color intensity, and font sizes.

After reconvening in the meeting hall, Mr. Embick stated that the Commission needs more information about the nature of digital signs, and summarized that the main items to look into might be illumination, message frequency, and timing. Ms. Carter suggested two options to consider: to recommend approval of proposed ordinance amendment, which was a fairly quick process, or to look into specifics of digital signs to evaluate all potential changes to the ordinance, which will take more time. The Commission thought that digital sign provisions shall be fully evaluated. Mr. Embick asked about the desired timing. Mr. Crum responded that they were ready for installation. Ms. Carter suggested to review guidelines and information provided by Ms. Hannah, to evaluate the most recent digital sign ordinances, and to provide recommendations for potential changes. The Commission agreed to that suggestion.

## **2. Sketch Plan for Funeral Home – 1115 Wilmington Pike & 12 E Pleasant Grove Road**

Mr. Embick explained that the owners, John and Bonnie Ruffenach, propose to develop the property at 1115 Wilmington Pike with a funeral home, where currently there is a 2-story stone dwelling. He added that the property is located within the Planned Office Campus (POC) Zoning District, where a funeral home is a permitted by right use. The property at 12 E Pleasant Grove Road is located within R-1 Residential Zoning District where a funeral home is not a permitted by right use. Mr. Embick announced that the applicant was seeking an access easement across the Township-owned property where the Township Public Works facility is located.

Stephen Fortwangler, the architect with PM Design Group, presented a sketch plan for construction of a funeral home, parking areas, stormwater management facility, and driveway across the Township-owned property. He explained that the applicant would like to extend the driveway between the two properties to have a direct access to the church across E. Pleasant Grove Road. He added that the purpose of tonight's presentation was to get an initial feedback on the proposed plan and access easement.

Mr. Lees asked how the public utilities for the property be serviced. Mr. Fortwangler responded that they would like to tap into both public sewer and water. Mr. Ruffenach confirmed that the property is currently on a well and onsite septic system. Mr. Sennett questioned the reasoning behind the secondary access. Mr. Ruffenach explained that it was more desirable to access the property from E Pleasant Grove Road than Wilmington Pike. Mr. Sennett expressed concerns about additional traffic volumes and traffic impact on E. Pleasant Grove Road and surrounding neighborhoods. He asked whether the applicant would consider completing a traffic study, which he felt was important in order to provide recommendations. Mr. Ruffenach agreed with that suggestion. Mr. Hatton asked whether the applicant has discussed the proposal with adjacent neighbors. Mr. Ruffenach explained there was one neighbor who has previously expressed concerns pertaining to the wetlands. He stated that John Lister, an engineer, who worked on the project previously, has addressed her concerns and pointed out to the areas of delineated wetlands on the plan. Mr. Sennett asked whether the applicant considered Kolbe Lane for access. Mr. Ruffenach pointed out there were significant areas of wetlands limiting such access, and that the neighbors would not be supportive of access from Kolbe Lane.

Mr. Knaub raised questions about funeral procession accessing Wilmington Pike in a safe manner. Mr. Ruffenach stated that it would be done via E Pleasant Grove Road and Skiles Boulevard avoiding the direct access onto Route 202, which could be dangerous. Mr. Ruffenach also provided that the parcel at 1115 Wilmington Pike contains a historic home that he intends to preserve and reuse. He summarized the history of the house and explained that there were tenants living there previously, and now he would like to redevelop the property with his son and daughter coming into this business. Mr. Ruffenach also stated that most funerals now bring 12 to 15 cars, and he observed over the years that funerals became more private. He explained that in case of a larger funeral, they would create a plan, hire extra help, and use churches for additional assistance. Mr. Embick asked whether their hope was to use St. Maximillian Church across the road. Mr. Ruffenach stated that they would rely on St. Max.

Mr. Embick asked whether the use of a residential parcel for an access requires a variance. Ms. Carter explained that the parcel is located in R-1 Residential District where funeral home is not a permitted by right use and asked to clarify the intended use of the property. Mr. Ruffenach stated that he intended to continue using it as a residence, with the access driveway to the funeral home through the parcel. Ms. Carter cautioned that the proposed driveway might surpass the allowable impervious coverage for the lot. Mr. Embick believed that the variance is needed because the use of the funeral business will be incorporated in the residential parcel.

Mr. Embick asked about potential benefits and risks to the Township of granting such easement. Mr. Ruffenach believed that the area with easement was no use to anyone else and that an old building will be preserved and reused. Mr. Embick noted that the building is included in the Westtown Historic Resources inventory.

Mr. Embick asked whether the secondary access was required. Mr. Ruffenach provided that based on his experience, such access was highly needed from a safety standpoint. Mr. Embick asked whether Mr. Ruffenach expected most traffic to access the funeral home via E Pleasant Grove Road. Mr. Ruffenach believed that would be the case, and suggested installing a gate at the access point. Mr. Embick provided that traffic on E. Pleasant Grove Road has been a subject of many complaints to the Township. He asked if any studies of environmental consequences for the construction of a driveway in the proposed location had been done. Mr. Ruffenach noted there were no bog turtles or bog turtle habitat. Mr. Embick pointed out that the driveway would cross wetlands. Mr. Fortwangler responded that he would check with the engineer who completed the plan, because there should be no wetlands in that location.

Mr. Sennett believed that it was not beneficial for the Township for the parcel to be idle and it was not bringing any value and was supportive of an idea to redevelop the property as long as the issues discussed, including traffic concerns, are addressed. Mr. Lees also noted that the applicant would have to work with PennDOT to relocate the access along Route 202. Mr. Embick suggested for a traffic impact study as well as confirmation that the proposed drive will not go through wetlands or put a negative impact on Township wildlife. Mr. Ruffenach agreed.

## **Old Business**

### **1. Ordinance Amendments – Visual Arts Center (VAC)**

Mr. Embick explained that the Chester County Planning Commission has reviewed the proposed 2024-06 Zoning Ordinance amendment pursuant to the provisions of the Pennsylvania Municipalities Planning Code, Section 609(e) and issued a review letter which was supportive of proposed changes. Mr. Sennett made a motion to recommend to the Board of Supervisors the adoption of amendments as proposed in the ordinance. Mr. Lees seconded, there was no public comment. The motion passed 5-0.

### **2. Ordinance Amendments – Fences**

Mr. Sennett spoke on the behalf of the subcommittee that met to discuss the potential changes.



He went over the document that summarized the recommendations that resulted from that discussion. Mr. Sennett recapped that the subcommittee discussed the intent of fence provisions. He also stressed the importance of reasoning and principles behind fence provisions. Mr. Sennett questioned the reasoning behind requesting permits for all fences exceeding 40 feet in length, but after thorough discussion decided that it made sense as it might represent the needed length to enclose at least 50 percent of one side of the property. Mr. Sennett also provided recommendation to regulate all fences on a property.

Mr. Embick agreed there were benefits to fences such as privacy and security, and detriments such as aesthetics, cohesion with community's character, light, safety, and interference with the environment. He also noted that parallel fences create fire danger. Mr. Sennett noted there was a concern with the lack of maintenance on public safety. Ms. Carter pointed out that the Township does not have any provisions for fence foundations; therefore, some may not be set in concrete, which might be needed depending on the type of a fence. The Commission agreed that such provisions should be considered.

Mr. Sennett recapped a recommendation to continue with the maximum allowable height of fence of six (6) feet in back and rear yards, but decrease the allowable height in the front yard to four (4) feet. He provided the rationale that six feet was aligned with human scale and afforded reasonable privacy without completely restricting light and air. Anything higher than that would feel like an enclosure. Discussion followed about type of fences that should be permitted within the front yard and potential prohibition on specific materials. Mr. Sennett recommended to consider limiting fences enclosing recreational facilities to specific type. Mr. Embick suggested to also look into defining recreational activity and potentially limiting its surface size for residential properties. Mr. Sennett also brought up the potential need for property surveys and designated setback to allow for fence maintenance. Ms. Carter stated that currently, as long as there is no encroachment, the fence can be installed, but the Township requests at least six inches from the property lines to decrease the potential for encroachment. She noted that the Township does not require property surveys to be done, and expressed concern that a large setback requirement would impede smaller lots. Mr. Embick felt that a property survey as important, and asked the Commission's feedback on appropriate setback requirement. Mr. Sennett felt that it was not right that the adjacent owner was left with maintaining the other side of the fence. The Commission decided on a one foot setback from the property line, which they felt would provide enough space for maintenance.

Mr. Sennett asked for more guidance on the extent to which fence materials could be regulated. Ms. Carter said she would contact the Township solicitor on that topic. Mr. Sennett also suggested to provide provisions for garden fences, but felt that no permit should be required for those. He also recommended requiring fences within the front yards to have gates for emergency access and safety. Mr. Sennett stated that the subcommittee did not see a need for deer fences. The Commission agreed with these suggestions.

### **Public Comment**

Mr. Patel recapped his reasoning for requesting an 8 foot fence and asked the Planning Commission to reconsider. Mr. Embick noted that Mr. Patel applied for a variance for said fence with the Zoning Hearing Board, which was denied and that the Planning Commission did not see a reason to increase the height of permitted fences. He pointed out that Mr. Patel's fence was not permitted and should be removed or decreased in height to comply with the standards.

### **Reports**

1. Mr. Embick tabled the BOS report until the next meeting.

### **Adjournment (TS/) 5-0**

The meeting was adjourned at 9:52 PM.

Next PC Meeting:

- **September 4, 2024, 7:00 PM**

PC Representative at next Board of Supervisors Meeting:

- **Monday September 3, 2024, 7:30 PM – Russ Hatton**

Respectfully submitted,  
Mila Carter  
Planning Commission Secretary

DRAFT

## **PLANNING NEAR PIPELINES**

### **Ordinance Guidelines for Chester County, Pennsylvania**

In recent years, a number of local governments around the country have used their land use planning, zoning and permitting authority in a proactive effort to increase the safety of people living near pipelines. During this time, the Pipeline and Hazardous Materials Safety Administration (PHMSA) also formed the Pipelines and Informed Planning Alliance (PIPA). A committee of 150 people from a wide array of stakeholder groups crafted recommended “Best Practices” that could be used as a starting point for local discussions on improved safety near pipelines. The PIPA report containing those recommendations was released in December 2010. The report provides local governments, developers, and pipeline companies with recommended practices to consider when considering land use in proximity to pipelines (and vice versa) and provides a framework for how to consider the risk when new homes, schools, and businesses are proposed to be constructed near high-pressure transmission pipelines.

The four prong strategy discussed below was first developed as part of a U.S. DOT Technical Assistance Grant in 2010. The goal under that grant was to review existing ordinances and compare them to the “Best Practices” standards prepared by PHMSA. Municipal laws and ordinances vary widely and from state to state. Mr. John Gaadt, AICP of Gaadt Perspectives, LLC, adapted and built upon PIPA’s recommendations to create a regulatory approach tailored for this region of Pennsylvania. Further technical assistance was provided by Vincent M. Pompo, Esq., Chairman of the Municipal Law Department and the Environmental Law Practice Group of Lamb McErlane, who provided legal review of the ordinance framework.

The four prong municipal regulatory approach addresses the following:

- 1) Surface land uses affiliated with pipelines (providing for uses not otherwise permitted in most ordinances),
- 2) Street opening standards (providing for the regulation of street openings, installations and driveways),
- 3) Standards for new development in proximity to pipelines, and
- 4) Revisions to municipal comprehensive plans (providing the rational nexus between the comprehensive plan and code of ordinances).

Surface land uses affiliated with pipelines include, but are not limited to compressor stations, pumping stations, regulator stations, launcher/receiver stations, and other surface pipeline appurtenances. The purpose of such standards is to accommodate these uses consistent with the desire to protect the health, safety and welfare of the citizens of the municipality; minimize aesthetic, nuisance and visual impacts through design, siting and screening; ensure the location of such uses complies with industry standards; and preserve community character adjacent to such uses.

Street opening standards are intended to provide for the opening, cutting, excavating, grading, boring, crossing, installation or disturbance upon, in, under, or across a Township road or road right of way. Such standards are intended for any street openings on Township roads (not necessarily pipeline projects) and provide municipalities with appropriate tools to regulate and manage such occurrences.

Standards for new development in proximity to pipelines address the need for development proposals to incorporate existing or proposed pipelines into their site planning activities. The purpose of such standards is to help prevent or minimize unnecessary risk to the public health, safety and welfare due to transmission pipelines; minimize the likelihood of accidental damage to transmission pipelines due to external forces, such as construction activity and equipment; avoid exposing land uses with high on-site populations that are difficult to evacuate; and help reduce adverse impacts in the event of a pipeline failure. Standards include additional requirements for plan submission, buffers, setbacks, signage and landscaping provisions.

Suggested municipal comprehensive plan language, as stated above, is intended to provide a rational nexus between the comprehensive plan and municipal ordinances (pursuant to Section 105 of the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended). The purpose of such language is to acknowledge existing and proposed pipelines, recognize the benefits and risks of pipelines, acknowledge the need to monitor existing and proposed activity, enact regulations complimentary to state and federal law, encourage increased communication with pipeline operators, reference related county and statewide planning goals, and coordinate with county and state agencies on new pipeline projects.

Although revisions to the approaches developed as part of the strategy have been made since 2010, the adoption of Act 13 in 2012 (a statute amending the PA Oil and Gas Act) put into question whether some or all of the approaches for these ordinance guidelines were pre-empted by the Act. A subsequent lawsuit challenging certain portions of Act 13 (specifically relevant here Section 3303 which excluded municipal regulation of oil and gas operations and Section 3304 which required uniformity of local ordinances including use and setback requirements for siting oil and gas operations in zoning districts, including the “reasonable development” clause which permitted oil & gas operations in all zoning districts within the guidelines set forth by the provisions) resulted in the PA Commonwealth Court finding portions of the Act to be unconstitutional. The state’s public utility commission, attorney general and other officials appealed the Commonwealth Court’s decision to the PA Supreme Court, and oral arguments began in October of 2012. In December of 2013, a plurality of three Supreme Court Justices decreed that the state does not have absolute power over municipalities in terms of environmental protection and Act 13 puts municipalities in direct conflict with their constitutional authority to protect the environment under the “Environmental Rights Amendment”, Section 27 of the Pennsylvania Constitution. And, a majority of three Supreme Court Justices agreed that Sections 3303 and 3304 of the Act were unconstitutional. The Supreme Court recently denied a request to reconsider its opinion, and the decision on these grounds is now final.

Under Act 13 (and prior to the findings of PA’s Commonwealth Court and Supreme Court, it was concluded that three of the four approaches were consistent with and were on solid ground from a planning and legal perspective. These were the ordinance guidelines for new development in proximity to pipelines, ordinance guidelines for street openings, and revisions to municipal comprehensive plans to recognize existing and proposed transmission pipeline issues. The fourth item, “Surface Land Uses Affiliated with Pipelines” (providing for uses not otherwise permitted in most ordinances), was not consistent with the zoning provisions of Act 13. Subsequent to the findings of both the Commonwealth Court and the PA Supreme Court, all four strategies are now viewed to be consistent with PA law.

It is our opinion that these guidelines provide an effective approach towards proactively addressing pipelines within the legislative and regulatory climate currently in existence. We encourage each municipality to review the standards offered in these guidelines (for example, width of setbacks or landscaping provisions) in relation to their existing ordinances and placement within their codes. We believe that the overall approach outlined in these ordinance guidelines provides a sound framework for municipalities to begin examining their existing comprehensive plans and ordinances in relation to land use planning and pipelines so as to balance development with conserving natural resources and to protect the health, safety, and welfare of the citizens of Chester County.

The Pennsylvania Supreme Court in its decision *Robinson Township v. Commonwealth*, 83 A.3d 901 (Pa. 2013), stated:

In Pennsylvania, terrain and natural conditions frequently differ throughout a municipality, and from municipality to municipality. As a result, the impact on the quality, quantity, and well-being of our natural resources cannot reasonably be assessed on the basis of a statewide average. Protection of environmental values, in this respect, is a quintessential local issue that must be tailored to local conditions

In reviewing the ordinance guidelines related to land planning and pipelines, municipalities should consult their solicitors, and exercise due caution in adopting the guidelines contained herein. Each municipality is different and the approach taken to regulating transmission pipelines and their appurtenances should be tailored to the unique circumstances of the community.

**PLAN SUBMISSION, BUFFERING AND SETBACK FROM  
TRANSMISSION PIPELINES**

Note: The sections of this ordinance are intended to be enacted as part of a Township's Subdivision and Land Development Ordinance.

**AN ORDINANCE PURSUANT TO ARTICLE V OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, AMENDING CHAPTER \_\_\_ OF THE CODE OF ORDINANCES OF \_\_\_\_\_ TOWNSHIP, BEING THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE BY PROVIDING FOR PLAN SUBMISSION, BUFFER, SETBACK, SIGNAGE AND LANDSCAPING PROVISIONS FOR NEW DEVELOPMENT ADJACENT TO TRANSMISSION PIPELINES. EFFECTIVE FIVE DAYS FROM ENACTMENT.**

**Section 1.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_ thereof, being the \_\_\_\_\_ Township Subdivision and Land Development Ordinance, as amended (the "Subdivision Chapter"), Article \_\_\_, Plan Requirements and Procedures, Sections \_\_\_, Plan Content for Preliminary and Final Plan Submissions, is amended by adding a new subsection \_\_\_, to read as follows:

(\_\_\_) The location, center line right-of-way, and limits of easements for all transmission pipelines on the tract or on any abutting property.

**Section 2.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_ thereof, being the \_\_\_\_\_ Township Subdivision and Land Development Ordinance, as amended (the "Subdivision Chapter"), Article \_\_\_, Design Standards, Section \_\_\_, is amended by adding a new section \_\_\_, to read as follows:

Section \_\_\_. Buffer Standards and Setbacks from Transmission Pipelines

A. Purpose

The purpose of this section is to help prevent and minimize unnecessary risk to the public health, safety and welfare due to transmission pipelines and ensure consistency with the intent of the Township's Comprehensive Plan. Recognizing it is impossible to eliminate risk entirely, this section is intended to:

- (1) Minimize the likelihood of accidental damage to transmission pipelines due to external forces, such as construction activity and equipment.
- (2) Avoid exposing land uses with high on-site populations that are difficult to evacuate.
- (3) Help reduce adverse impacts in the event of a pipeline failure.

- (4) Ensure compliance with and supplement existing federal and state regulations related to transmission pipeline corridor management, among them the Federal Energy Regulatory Commission (FERC) and the Pennsylvania Oil and Gas Act.

B. Applicability

- (1) Setbacks. New residential buildings and all new commercial, industrial and institutional uses other than those surface uses affiliated with transmission pipelines shall be set back a minimum of three hundred (300) feet from any existing or proposed transmission pipeline right-of-way; such uses shall be set back from natural gas compressor stations or other surface land uses affiliated with transmission pipelines a minimum of seven hundred and fifty (750) feet or five hundred (500) feet from the nearest lot line of natural gas compressor stations or other surface land uses affiliated with transmission pipelines, whichever is greater, unless waived in writing by the new development applicant (in which case such uses shall be set back a minimum of three hundred (300) feet from the nearest lot line of natural gas compressor stations or other surface land uses affiliated with transmission pipelines). Other unoccupied residential or non-residential accessory uses such as but not limited to detached garages, parking areas, storage facilities or garden sheds shall not be located within two hundred (200) feet of any pipeline right-of-way.

Setbacks may be modified by the Township pursuant to the type of material being transported in the pipeline and whether the applicant proposes high on-site populations. The Township shall, on a case-by-case basis determine whether increased setbacks are warranted consistent with the “Potential Impact Radius” (PIR), defined by the relationship between the diameter of the adjacent pipeline and its maximum operating pressure (see Exhibit 1), whether high on-site populations are proposed, and whether more than one transmission pipeline (such as coupled lines) exist (or are proposed). The PIR approach is applicable only to “gas” or “petroleum gas” transmission pipelines as defined by Title 49, Code of Federal Regulations, Section 192.3. Transmission pipelines carrying "hazardous liquids", as defined by Title 49, Code of Federal Regulations, Section 195.2 shall adhere to the setback standards contained in this subsection.

*Note: Although Act 13’s setbacks were 750 feet from compressor stations, the Act also provided DEP latitude to reduce such setbacks if waived by the owner of adjacent buildings or adjoining lots. The setbacks offered here are graduated to apply to different types of uses and settings. Municipalities wishing to consider larger setbacks for transmission pipelines (including petroleum or other hazardous liquid pipelines not addressed by the PIR approach) should only do so if they believe they can justify the need for larger setbacks to protect High Consequence Areas (areas with high on-site populations) or Unusually Sensitive Areas (areas with unique natural resource constraints). Any increase or decrease in setbacks should be reviewed by the municipal solicitor.*

No activity or grading within the pipeline setback shall create depressions or areas in which flammable or explosive materials may collect or accumulate; examples include but are not limited to grading for structures, stormwater management facilities or landscape beds. Furthermore, pipeline rights-of way shall be identified and protected during construction by erecting suitable temporary barricades (non disturbance fencing or silt fencing) and posting notices on-site.

(2) Consultation zone. Any application, other than those surface uses affiliated with transmission pipelines, for new residential structures and all commercial, industrial and institutional uses (whether Class 1, 2, 3 or 4 locations pursuant to Exhibit 1), proposed within six hundred sixty (660) feet of any existing or proposed transmission pipeline right-of-way shall include written verification from the applicant that:

- (a) The applicant has contacted the pipeline operator(s) and has provided the pipeline operator(s) with documentation detailing the proposed development activity and where the activity is to take place;
- (b) The applicant has made sufficient access to the pipeline available to the pipeline operator(s) for routine maintenance and emergency operations; and
- (c) The pipeline operator(s) has reviewed the documents for compatibility with continued or proposed safe operation of the transmission pipeline(s).

It shall be clear in the written notification submitted with the application that the pipeline operator(s) has received and acknowledged documentation showing the proposed activity and its location.

*Note: The 660 feet designation for consultation zones (above) and high on-site populations (below) is based upon “best practices” developed by the Pipelines and Informed Planning Alliance (PIPA), a planning committee formed by Pipeline and Hazardous Materials Safety Administration (PHMSA) (see the “Planning Near Pipelines” Introduction for more information).*

(3) Land uses with high on-site populations. Applicants for land uses with high on-site populations within six hundred sixty (660) feet of a transmission pipeline shall develop appropriate mitigation measures to help reduce adverse impacts in the event of a pipeline failure. Such measures and/or corresponding plans shall be submitted to the Township for review. Land uses with high on-site populations include schools (through grade 12), hospitals, clinics, multi-family housing, retirement and/or life care facilities, stadiums or arenas, day care centers, or large scale commercial, industrial or institutional uses of fifty (50) or more persons.

Mitigation measures intended to reduce risk and minimize impact in the event of a pipeline failure include but are not limited to: emergency procedures such as emergency



plans and guides, employee training and drills, and education programs for occupants and employees concerning pipeline safety, such as what to be aware of and how to respond in the event of a problem. Applicants shall consult with the local Fire Marshal regarding the level of emergency planning and procedures appropriate for the proposed development; the Fire Marshall may also require submission of plans for review and approval where deemed appropriate.

- C. Land Development Design, Buffering and Screening. Applicants shall consider existing or proposed pipelines in their design and placement of lots, structures and roads. Specifically, consideration shall be given to incorporating the linear appearance of the pipeline right-of-way into the overall development design or landscaping in a manner that works with or minimizes the linear appearance of the pipeline right-of-way. Attempts shall be made to avoid creating a bisecting and unnatural linear space that does not relate to the land development.

The applicant shall provide a plan prepared by a landscape architect licensed in Pennsylvania showing landscaping proposed to be installed to minimize the linear appearance of the pipeline right-of-way and screen and buffer new development from transmission pipelines in the event of an accident or failure. Landscaping can be used both to minimize the linear appearance of the pipeline right-or-way and buffer structures from those remedial activities associated with pipeline failure and clean-up.

The landscape plan shall incorporate a mix of native vegetation, including evergreens, shrubbery and trees, which shall be of sufficient density to meet the objectives outlined herein while permitting suitable points of access for pipeline personnel providing routine maintenance. Existing vegetation in proximity to transmission pipelines shall be preserved to the greatest extent possible. All proposed landscaping shall comply with the requirements of this Ordinance.

- D. Signage. Applicants shall consult with transmission pipeline operators to determine the need for, number of, and placement of utility identification signs, appropriate warning signs and owner identification signs. The number and placement of signs and their content shall be shown on plan submissions.

**Section 3.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_\_ thereof, being the \_\_\_\_\_ Township Subdivision and Land Development Ordinance, as amended (the “Subdivision Chapter”), Article \_\_, Section \_\_\_\_, Definitions, is amended by adding the following terms and definitions therefore in the correct alphabetical sequence:

**Pipeline** – As defined by Title 49, Code of Federal Regulations, Sections 195.2 and 192.3.

**Surface land uses affiliated with transmission pipelines** – Above-ground transmission pipeline facilities including, but not limited to, compressor stations, pumping stations, regulator stations, launcher/receiver stations, and other surface pipeline appurtenances.

**Transmission Pipelines** – Transmission pipelines include, but are not limited to, pipelines designed for the transmission of a "gas" or "petroleum gas", except a "service line", as those terms are defined by Title 49, Code of Federal Regulations, Section 192.3; also included are pipelines designed for the transmission of a "hazardous liquid", as defined by Title 49, Code of Federal Regulations, Section 195.2.

**PLAN SUBMISSION, BUFFERING AND SETBACK FROM  
TRANSMISSION PIPELINES**

Note: The sections of this ordinance are intended to be enacted as part of a Township's Subdivision and Land Development Ordinance.

**AN ORDINANCE PURSUANT TO ARTICLE V OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, AMENDING CHAPTER \_\_\_ OF THE CODE OF ORDINANCES OF \_\_\_\_\_ TOWNSHIP, BEING THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE BY PROVIDING FOR PLAN SUBMISSION, BUFFER, SETBACK, SIGNAGE AND LANDSCAPING PROVISIONS FOR NEW DEVELOPMENT ADJACENT TO TRANSMISSION PIPELINES. EFFECTIVE FIVE DAYS FROM ENACTMENT.**

**Section 1.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_ thereof, being the \_\_\_\_\_ Township Subdivision and Land Development Ordinance, as amended (the "Subdivision Chapter"), Article \_\_\_, Plan Requirements and Procedures, Sections \_\_\_, Plan Content for Preliminary and Final Plan Submissions, is amended by adding a new subsection \_\_\_, to read as follows:

(\_\_\_) The location, center line right-of-way, and limits of easements for all transmission pipelines on the tract or on any abutting property.

**Section 2.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_ thereof, being the \_\_\_\_\_ Township Subdivision and Land Development Ordinance, as amended (the "Subdivision Chapter"), Article \_\_\_, Design Standards, Section \_\_\_, is amended by adding a new section \_\_\_, to read as follows:

Section \_\_\_. Buffer Standards and Setbacks from Transmission Pipelines

A. Purpose

The purpose of this section is to help prevent and minimize unnecessary risk to the public health, safety and welfare due to transmission pipelines and ensure consistency with the intent of the Township's Comprehensive Plan. Recognizing it is impossible to eliminate risk entirely, this section is intended to:

- (1) Minimize the likelihood of accidental damage to transmission pipelines due to external forces, such as construction activity and equipment.
- (2) Avoid exposing land uses with high on-site populations that are difficult to evacuate.
- (3) Help reduce adverse impacts in the event of a pipeline failure.

- (4) Ensure compliance with and supplement existing federal and state regulations related to transmission pipeline corridor management, among them the Federal Energy Regulatory Commission (FERC) and the Pennsylvania Oil and Gas Act.

B. Applicability

- (1) Setbacks. New residential buildings and all new commercial, industrial and institutional uses other than those surface uses affiliated with transmission pipelines shall be set back a minimum of three hundred (300) feet from any existing or proposed transmission pipeline right-of-way; such uses shall be set back from natural gas compressor stations or other surface land uses affiliated with transmission pipelines a minimum of seven hundred and fifty (750) feet or five hundred (500) feet from the nearest lot line of natural gas compressor stations or other surface land uses affiliated with transmission pipelines, whichever is greater. Other unoccupied residential or non-residential accessory uses such as but not limited to detached garages, parking areas, storage facilities or garden sheds shall not be located within two hundred (200) feet of any pipeline right-of-way.

Setbacks may be modified by the Township pursuant to the type of material being transported in the pipeline and whether the applicant proposes high on-site populations. The Township shall, on a case-by-case basis determine whether increased setbacks are warranted consistent with the “Potential Impact Radius” (PIR), defined by the relationship between the diameter of the adjacent pipeline and its maximum operating pressure (see Exhibit 1), whether high on-site populations are proposed, and whether more than one transmission pipeline (such as coupled lines) exist (or are proposed). The PIR approach is applicable only to “gas” or “petroleum gas” transmission pipelines as defined by Title 49, Code of Federal Regulations, Section 192.3. Transmission pipelines carrying "hazardous liquids", as defined by Title 49, Code of Federal Regulations, Section 195.2 shall adhere to the setback standards contained in this subsection.

*Note: Although Act 13’s setbacks were 750 feet from compressor stations, the Act also provided DEP latitude to reduce such setbacks if waived by the owner of adjacent buildings or adjoining lots. The setbacks offered here are graduated to apply to different types of uses and settings. Municipalities wishing to consider larger setbacks for transmission pipelines (including petroleum or other hazardous liquid pipelines not addressed by the PIR approach) should only do so if they believe they can justify the need for larger setbacks to protect High Consequence Areas (areas with high on-site populations) or Unusually Sensitive Areas (areas with unique natural resource constraints). Any increase or decrease in setbacks should be reviewed by the municipal solicitor.*

No activity or grading within the pipeline setback shall create depressions or areas in which flammable or explosive materials may collect or accumulate; examples include but are not limited to grading for structures, stormwater management facilities or landscape beds. Furthermore, pipeline rights-of way shall be identified and protected during construction by erecting suitable temporary barricades (non disturbance fencing or silt fencing) and posting notices on-site.

*Note: Given the regulatory process undertaken to permit new pipelines, the economic variables that influence pipeline location, and the changing market for materials transported through pipelines, it is often very difficult to determine whether a “proposed” pipeline will be constructed. The intent of requiring applicants to plan for proposed pipelines is to ensure applicants undertake due diligence in their land planning activities - communicating with pipeline companies/operators about intended development, informing and involving municipal officials in such communications, and making informed decisions regarding the likelihood of proposed pipelines being constructed. Municipalities may wish to consider adding ordinance language such as the following:*

“Applicants undertaking development in proximity to proposed transmission pipeline rights-of-way shall determine the likelihood of the pipeline being installed through proactive communications with the pipeline company/operator; such communications shall involve municipal officials and a determination shall be made as to the likelihood of the pipeline being constructed. In the event the developer and municipality disagree regarding the likelihood of the pipeline being constructed, the applicant shall indicate the extent of the disagreement on the plan, shall provide a minimum 100 foot buffer from the proposed right-of-way, and shall indicate on both the property and lot deeds the inherent risks of being in close proximity to a pipeline should it be constructed in the future.”

- (2) Consultation zone. Any application, other than those surface uses affiliated with transmission pipelines, for new residential structures and all new commercial, industrial and institutional uses (whether Class 1, 2, 3 or 4 locations pursuant to Exhibit 1), proposed within six hundred sixty (660) feet of any existing or proposed transmission pipeline right-of-way shall include written verification from the applicant that:
- (a) The applicant has contacted the pipeline operator(s) and has provided the pipeline operator(s) with documentation detailing the proposed development activity and where the activity is to take place;
  - (b) The applicant has made sufficient access to the pipeline available to the pipeline operator(s) for routine maintenance and emergency operations; and
  - (c) The pipeline operator(s) has reviewed the documents for compatibility with continued or proposed safe operation of the transmission pipeline(s).

It shall be clear in the written notification submitted with the application that the pipeline operator(s) has received and acknowledged documentation showing the proposed activity and its location.

*Note: The 660 feet designation for consultation zones (above) and high on-site populations (below) is based upon “best practices” developed by the Pipelines and Informed Planning Alliance (PIPA), a planning committee formed by Pipeline and Hazardous Materials Safety Administration (PHMSA) (see the “Planning Near Pipelines” Introduction for more information).*

- (3) Land uses with high on-site populations. Applicants for land uses with high on-site populations within six hundred sixty (660) feet of a transmission pipeline shall develop appropriate mitigation measures to help reduce adverse impacts in the event of a pipeline failure. Such measures and/or corresponding plans shall be submitted to the Township for review. Land uses with high on-site populations include schools (through grade 12, trade schools, advanced education institutions, etc.), hospitals, clinics, multi-family housing, retirement and/or life care facilities, stadiums or arenas, day care centers, or large scale commercial, industrial or institutional uses of fifty (50) or more persons.

Mitigation measures intended to reduce risk and minimize impact in the event of a pipeline failure include but are not limited to: emergency procedures such as emergency plans and guides, employee training and drills, and education programs for occupants and employees concerning pipeline safety, such as what to be aware of and how to respond in the event of a problem. Applicants shall consult with the local Fire Marshal regarding the level of emergency planning and procedures appropriate for the proposed development; the Fire Marshall may also require submission of plans for review and approval where deemed appropriate.

- C. Land Development Design, Buffering and Screening. Applicants shall consider existing or proposed pipelines in their design and placement of lots, structures and roads. Specifically, consideration shall be given to incorporating the linear appearance of the pipeline right-of-way into the overall development design or landscaping in a manner that works with or minimizes the linear appearance of the pipeline right-of-way. Attempts shall be made to avoid creating a bisecting and unnatural linear space that does not relate to the land development.

The applicant shall provide a plan prepared by a landscape architect licensed in Pennsylvania showing landscaping proposed to be installed to minimize the linear appearance of the pipeline right-of-way and screen and buffer new development from transmission pipelines in the event of an accident or failure. Landscaping can be used both to minimize the linear appearance of the pipeline right-of-way and buffer structures from those remedial activities associated with pipeline failure and clean-up.

The landscape plan shall incorporate a mix of native vegetation, including evergreens, shrubbery and trees, which shall be of sufficient density to meet the objectives outlined herein while permitting suitable points of access for pipeline personnel providing routine maintenance. Existing vegetation in proximity to transmission pipelines shall be preserved to the greatest extent possible. All proposed landscaping shall comply with the requirements of this Ordinance.

- D. Signage. Applicants shall consult with transmission pipeline operators to determine the need for, number of, and placement of utility identification signs, appropriate warning signs and owner identification signs. The number and placement of signs and their content shall be shown on plan submissions.

**Section 3.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_\_ thereof, being the \_\_\_\_\_ Township Subdivision and Land Development Ordinance, as amended (the “Subdivision Chapter”), Article \_\_, Section \_\_\_\_, Definitions, is amended by adding the following terms and definitions therefore in the correct alphabetical sequence:

**Pipeline** – As defined by Title 49, Code of Federal Regulations, Sections 195.2 and 192.3.

**Surface land uses affiliated with transmission pipelines** – Above-ground transmission pipeline facilities including, but not limited to, compressor stations, pumping stations, regulator stations, launcher/receiver stations, and other surface pipeline appurtenances.

**Transmission Pipelines** – Transmission pipelines include, but are not limited to, pipelines designed for the transmission of a "gas" or "petroleum gas", except a "service line", as those terms are defined by Title 49, Code of Federal Regulations, Section 192.3; also included are pipelines designed for the transmission of a "hazardous liquid", as defined by Title 49, Code of Federal Regulations, Section 195.2.

**§ 95-35.1. Buffer standards and setbacks from transmission pipelines. [Added 3-10-2015 by Ord. No. 5-2015]**

- A. Purpose. The purpose of this section is to prevent and minimize unnecessary risk to the public health, safety and welfare due to transmission pipelines and ensure consistency with the intent of the Township's Comprehensive Plan. Recognizing that it is impossible to eliminate risk entirely, this section is intended to:
- (1) Minimize the likelihood of accidental damage to transmission pipelines due to external forces, such as construction activity and equipment.
  - (2) Avoid exposing land uses with high on-site populations that are difficult to evacuate.
  - (3) Help reduce adverse impacts in the event of a pipeline failure.
  - (4) Ensure compliance with and supplement existing federal and state regulations related to transmission pipeline corridor management, among them Federal Energy Regulatory Commission (FERC) standards, the Pennsylvania Oil and Gas Act (as amended),<sup>1</sup> and Pennsylvania case law.
- B. Applicability.
- (1) Setbacks.
    - (a) New residential buildings and all new commercial, industrial and institutional uses other than those surface uses affiliated with transmission pipelines shall be set back a minimum of 300 feet from any existing or proposed transmission pipeline right-of-way; such uses shall be set back from natural gas compressor stations or other surface land uses affiliated with transmission pipelines a minimum of 750 feet or 500 feet from the nearest lot line of natural gas compressor stations or other surface land uses affiliated with transmission pipelines, whichever is greater. Other unoccupied residential or nonresidential accessory uses, such as but not limited to detached garages, parking areas, storage facilities or garden sheds, shall not be located within 200 feet of any pipeline right-of-way. While these setbacks originated in amendments to the Pennsylvania Oil and Gas Act (Act 13 of 2012),<sup>2</sup> the Township intends to monitor emerging science on setback safety and revise these standards periodically. Where yard area or other setbacks of the underlying zoning district contradict these standards, the larger of the setbacks shall apply.
    - (b) Setbacks may be modified by the Township pursuant to the type of material being transported in the pipeline, the type of use being proposed for the site, and the current status of science regarding safety protocols in proximity to pipelines or surface land uses affiliated with transmission pipelines. The Township shall, on a case-by-case basis determine whether increased setbacks are warranted consistent with the "potential impact radius" (PIR), defined by the relationship between the diameter of the adjacent pipeline and its maximum operating pressure (See 115 Attachment 6.<sup>3</sup>), whether high on-site populations are proposed (often referred to as "high consequence areas"), and whether more than one transmission pipeline (such as coupled lines) exist (or are proposed). The PIR approach is applicable only to "gas" or "petroleum gas" transmission pipelines as

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1. Editor's Note: See 58 P.S. § 601.101 et seq.

2. Editor's Note: See 58 P.S. § 601.101 et seq.

3. Editor's Note: Attachment 6 is included as an attachment to Ch. 115, Zoning.



§ 95-35.1

defined by 49 CFR 192.3. Transmission pipelines carrying "hazardous liquids," as defined by 49 CFR 195.2, shall adhere to the setback standards contained in this subsection. § 95-35.1

- (c) No activity or grading within the pipeline setback shall create depressions or areas in which flammable or explosive materials may collect or accumulate; examples include but are not limited to grading for structures, stormwater management facilities or landscape beds. Furthermore, pipeline rights-of way shall be identified and protected during construction by erecting suitable temporary barricades (non disturbance fencing or silt fencing) and posting notices on-site.

(2) Consultation zone.

- (a) Any application, other than those surface uses affiliated with transmission pipelines, for new residential structures and all commercial, industrial and institutional uses (whether Class 1, 2, 3 or 4 locations pursuant to Exhibit 1<sup>4</sup>), proposed within 660 feet of any existing or proposed transmission pipeline right-of-way shall include written verification from the applicant that:

- [1] The applicant has contacted the pipeline operator(s) and has provided the pipeline operator(s) with documentation detailing the proposed development activity and where the activity is to take place;

- [2] The applicant has made sufficient access to the pipeline available to the pipeline operator(s) for routine maintenance and emergency operations; and

- [3] The pipeline operator(s) has reviewed the documents for compatibility with continued or proposed safe operation of the transmission pipeline(s).

- (b) It shall be clear in the written notification submitted with the application that the pipeline operator(s) has received and acknowledged documentation showing the proposed activity and its location.

(3) Land uses with high on-site populations.

- (a) Applicants for land uses with high on-site populations within 660 feet of a transmission pipeline shall develop appropriate mitigation measures to help reduce adverse impacts in the event of a pipeline failure. Such measures and/or corresponding plans shall be submitted to the Township for review. Land uses with high on-site populations include schools (through grade 12), hospitals, clinics, multifamily housing, retirement and/or life-care facilities, stadiums or arenas, day-care centers, or large scale commercial, industrial or institutional uses of 50 or more persons.

- (b) Mitigation measures intended to reduce risk and minimize impact in the event of a pipeline failure include but are not limited to emergency procedures such as emergency plans and guides, employee training and drills, and education programs for occupants and employees concerning pipeline safety, such as what to be aware of and how to respond in the event of a problem. Applicants shall consult with the local Fire Marshal regarding the level of emergency planning and procedures appropriate for the proposed development; the Fire Marshal may also require submission of plans for review and approval where deemed appropriate.

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4. Editor's Note: Exhibit 1 is on file in the Township offices.

C. Land development design, buffering and screening.



- (1) Applicants shall consider existing or proposed pipelines in their design and placement of lots, structures and roads. Specifically, consideration shall be given to incorporating the linear appearance of the pipeline right-of-way into the overall development design or landscaping in a manner that works with or minimizes the linear appearance of the pipeline right-of-way. Attempts shall be made to avoid creating a bisecting and unnatural linear space that does not relate to the land development.
- (2) The applicant shall provide a plan prepared by a landscape architect licensed in Pennsylvania showing landscaping proposed to be installed to minimize the linear appearance of the pipeline right-of-way and screen and buffer new development from transmission pipelines in the event of an accident or failure. Landscaping can be used both to minimize the linear appearance of the pipeline right-of-way and buffer structures from those remedial activities associated with pipeline failure and clean-up.
- (3) The landscape plan shall incorporate a mix of native vegetation, including evergreens, shrubbery and trees, which shall be of sufficient density to meet the objectives outlined herein while permitting suitable points of access for pipeline personnel providing routine maintenance. Existing vegetation in proximity to transmission pipelines shall be preserved to the greatest extent possible. All proposed landscaping shall comply with the requirements of this section and Chapter 115.

D. Signage. Applicants shall consult with transmission pipeline operators to determine the need for, number of, and placement of utility identification signs, appropriate warning signs and owner identification signs. The number and placement of signs and their content shall be shown on plan submissions.











# Pipelines and Pipeline Operators

Chester County, PA

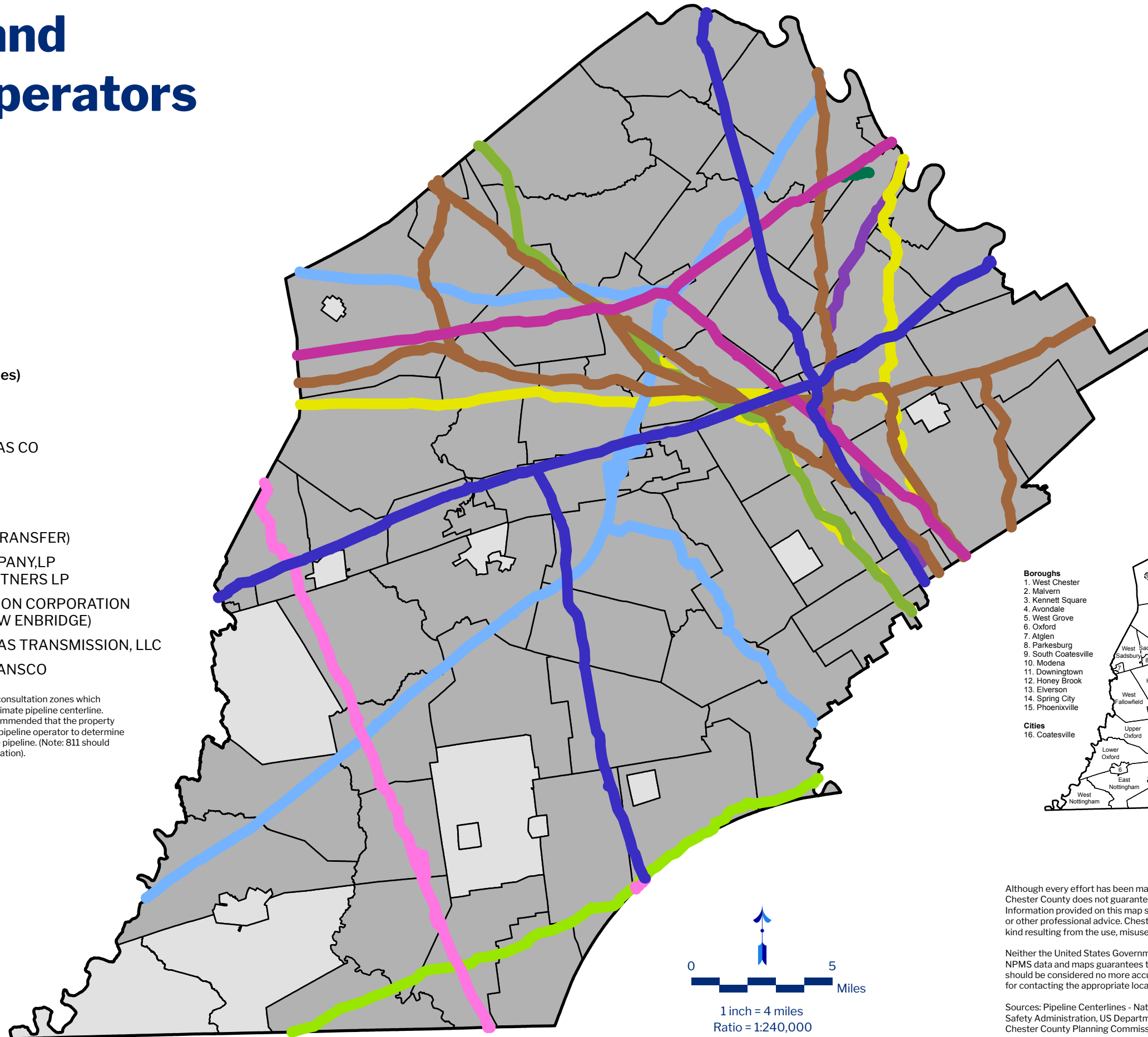
## Municipalities

-  Intersected by Pipeline
-  Not Intersected by Pipeline

## Pipeline Operators (Consultation Zones)

-  ADELPHIA GATEWAY, LLC
-  COLONIAL PIPELINE CO
-  EASTERN SHORE NATURAL GAS CO
-  LAUREL PIPELINE CO/  
BUCKEYE PARTNERS, LP
-  PECO ENERGY CO
-  SUNOCO PIPELINE (ENERGY TRANSFER)
-  TE PRODUCTS PIPELINE COMPANY,LP  
/ENTERPRISE PRODUCTS PARTNERS LP
-  TEXAS EASTERN TRANSMISSION CORPORATION  
/DUKE/SPECTRA ENERGY (NOW ENBRIDGE)
-  TRANSCANADA/COLUMBIA GAS TRANSMISSION, LLC
-  WILLIAMS GAS PIPELINE - TRANSCO

Consultation Zones - The pipeline corridors are depicted as consultation zones which represent a distance of 1000 feet on each side of the approximate pipeline centerline. If property development is planned within this zone, it is recommended that the property owner or developer initiate a dialogue with the transmission pipeline operator to determine if their proposed development will impact the integrity of the pipeline. (Note: 811 should always be called prior to any digging job regardless of the location).

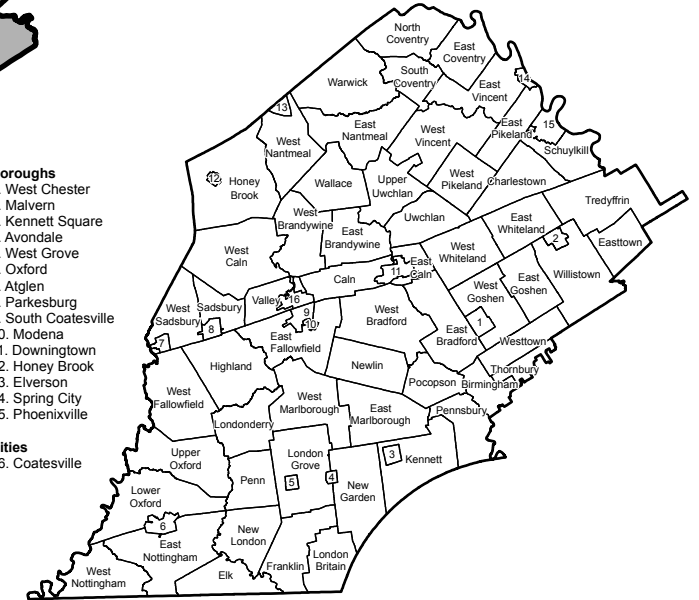


## Boroughs

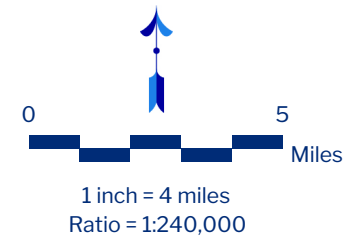
1. West Chester
2. Malvern
3. Kennett Square
4. Avondale
5. West Grove
6. Oxford
7. Atglen
8. Parkesburg
9. South Coatesville
10. Modena
11. Downingtown
12. Honey Brook
13. Elverson
14. Spring City
15. Phoenixville

## Cities

16. Coatesville



Date: 6/12/2023



Although every effort has been made to provide complete, accurate, and current information, Chester County does not guarantee the quality or completeness of the included information. Information provided on this map should not be used for legal, survey, engineering, financial, tax, or other professional advice. Chester County specifically disclaims liability for damages of any kind resulting from the use, misuse, or misrepresentation of any information contained herein.

Neither the United States Government nor any party involved in the creation and compilation of NPMS data and maps guarantees the accuracy or completeness of the products. NPMS data should be considered no more accurate than +/- 500 feet and must never be used as a substitute for contacting the appropriate local one-call center prior to digging.

Sources: Pipeline Centerlines - National Pipeline Mapping System, Pipeline and Hazardous Materials Safety Administration, US Department of Transportation, 2022; Pipeline Operator Information - Chester County Planning Commission, 2023.

# Pipeline Information Center Mapping Application

Legend Details

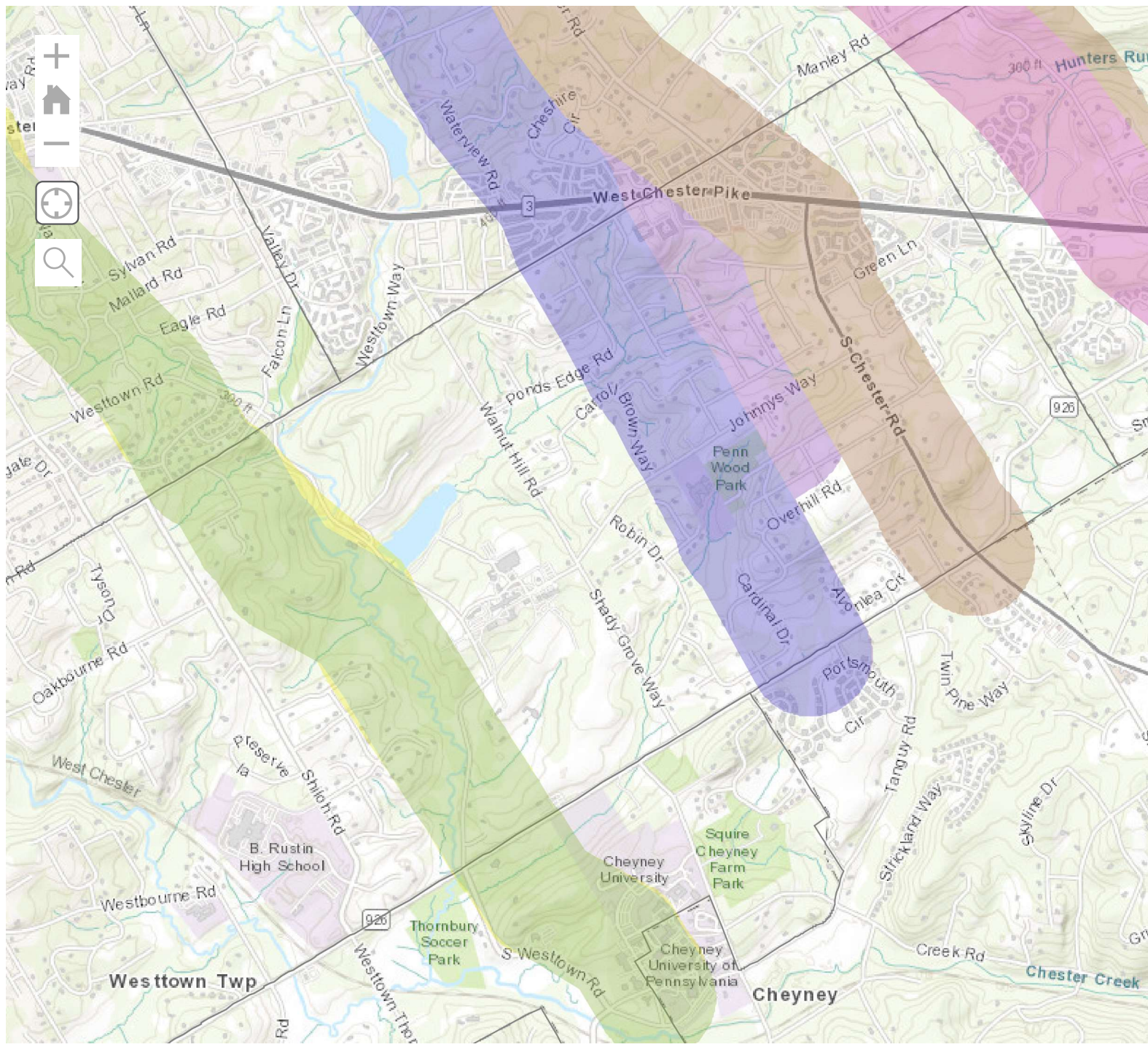
## Welcome to the Chester County Pipeline Information Center.

**\*Consultation Zones** - The pipeline corridors are depicted as consultation zones which represent a distance of 1000 feet on each side of the approximate pipeline centerline. If property development is planned within this zone, it is recommended that the property owner or developer initiate a dialogue with the transmission pipeline operator to determine if their proposed development will impact the integrity of the pipeline. (Note: 811 should always be called prior to any digging job regardless of the location.

Pipeline centerlines are only visible at 1:40,000 zoom level or less.

[View instructions on how to use the interactive map.](#)

Sources: Pipeline Centerlines - [National Pipeline Mapping System](#), Pipeline and Hazardous Materials Safety Administration, US Department of Transportation, 2022. Consultation Zones and Pipeline Operator Information - Chester County Planning Commission, 2022.



The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

## §170-201 **Definitions**

### **FENCE**

Any freestanding and uninhabited structure consisting of wood, glass, metal, plastic, wire, wire mesh, or masonry, singly or in combination with other materials, 2 1/2 feet high or higher, erected to secure or divide one property from another or part of a property from a remaining part, to assure privacy, to protect the property so defined, or to enclose all or part of the property; a freestanding masonry wall is considered a fence.

### **GARDEN FENCE**

An open fence that is no more than 60 feet in total length, fully encompassing a piece of ground, which is used to grow vegetables, fruit, herbs, or flowers for personal use (not retail).

### **OPEN FENCE**

A fence that has at least 50% of its surface area as open space, which allows for better visibility from both inside and outside the property being fenced. Such fence type may include split-rail, post and rail, picket fence and chain link fence.

### **YARD**

An open, unoccupied space on the same lot with a building or other structure or use.

### **YARD, FRONT**

A yard extending the full width of the lot along the front lot line and extending in depth from the front lot line to the nearest point of any part of a structure on the lot. On a corner lot, the Zoning Officer shall have the authority to determine which yard is the front yard, based upon the predominate pattern in the area.

### **YARD, REAR**

A yard extending the full width of the lot along the rear lot line and extending in depth from the rear lot line to the nearest point of any part of a structure on the lot.

### **YARD, SIDE**

A yard extending the full depth of the lot along a side lot line and extending in width from such side lot line to the nearest point of any part of a structure on the lot.

## § 170-1505 **Fences and walls.**

**[Amended 3-3-2003 by Ord. No. 2003-2; 2-6-2012 by Ord. No. 2012-1]**

- A. A permit is not required for a fence in the Township District.
- B. A permit is required for the installation, repair and replacement of all other fences exceeding 40 feet in length ~~and within the front, rear or side setback areas~~, except fences enclosing agricultural uses, or those constructed in conjunction with a permit for the installation of a swimming pool.

C. The following shall be submitted with permit application:

(1) A plot plan locating the proposed fence and fence gates, including dimensions in linear feet and inches shall be submitted with the permit application. The plot plan may be an informal sketch plan, not necessarily to exact scale, showing the property boundaries, all buildings and structures, right-of-ways and easements, and accurately locating the proposed fence.

(2) Details on fence foundation (such as concrete footings, t-posts, post spikes and post anchors) and fence materials.

D. The property owner or contractor shall notify the PA One Call System before submitting a permit application beginning construction of the fence.

CE. In a residential district or a residential or agricultural lot in another zoning district:

(1) A fence located within the required front building setback area of any yard shall be an open fence and shall have a maximum height of five four feet, and shall have a ratio of open to structural areas of at least 1:1 (such as a split rail or picket fence).

(2) A wall within the required front building setback area yard shall not exceed a height of three feet.

(3) A fence or wall located within other than front yard a minimum principal building setback area, other than the minimum front building setback, shall have a maximum height of six feet (decorative post tops may extend above six feet).

(4) No razor, barbed wire, spikes or electric fencing shall be placed upon a fence or wall.

(5) Garden fence shall be permitted within side and rear yards, no more than eight feet in height and shall meet the requirements of this chapter. No permit is required for garden fence.

(4) If one side of a fence is smoother or more finished than the other side of the fence, the smoother or more finished side shall face onto any abutting lot or public road.

(5) A fence higher than six feet is permitted to enclose a recreation facility such as a tennis court if the fence is integral to the recreational use and complies with the required building setbacks applicable to the zoning district.

DE. On any nonresidential lot, a fence or wall shall not exceed a height of five feet within the front yard minimum front building setback area and eight feet in any other yard minimum principal building setback area.

EG. A fence or wall within the front yard shall have an opening or an operable gate with a minimum width of 3 feet. There shall be a minimum of one opening or operable gate for each street frontage.

H. A fence or wall within the front yard shall be set back a minimum of 10 feet from the future right-of-way.

I. A fence or wall within other than front yard shall be set back from side and rear lot lines a minimum of one foot. The property owner is responsible for maintaining the area between the fence line and property lines.

J. A fence or wall constructed with metal and wooden posts shall be set in concrete.

K. If one side of a fence is smoother or more finished than the other side of the fence, the smoother or more finished side shall face onto any abutting lot or public road. The finished side shall also be considered

the side without structural support members.

L. An open fence higher than six feet is permitted to enclose a recreation facility and ground mounted solar system if the fence is integral to such use and complies with the required building setbacks applicable to the zoning district.

M. Where landscaping is required as a buffer around a use, all fencing shall be located on the inside of the landscaping, except for open fence fencing that is mostly open (such as split-rail or picket fencing) and is-if constructed of wood or materials with a similar appearance.

FN. This section shall not restrict retaining walls that are necessary to hold back slopes, nor walls of a building that are permitted by this chapter.

GO. No fence or wall shall be constructed on a property ~~within the existing or future right-of-way of a street,~~ ~~nor~~ in any location that would obstruct a permanent easement, unless permission is granted by the easement holder.

HP. Fences and their support materials shall be placed entirely within the boundaries of the property being fenced. If the ~~fence is to be located on or near the property line and the~~ property owner cannot demonstrate that the property line location is known and identified in the field, as well as on the permit plan, the ~~Township~~ Zoning Officer may require a survey of the property completed by a professional land surveyor to determine the precise limits of the property.

I.Q. ~~The repair or replacement of any fence that currently exists as of the date of the adoption of this chapter shall not require a permit.~~

R. Any fence or wall which, in judgement of the Zoning Officer, is unsafe, dangerous or a threat to the public health and safety shall be repaired, replaced or removed at the expense of the property owner.

JS. Regulations for fencing associated with wireless communications facilities are set forth in Article **XXV**, Wireless Communications Facilities, and those provisions are the applicable standards to apply to such fencing. [Added 6-15-2015 by Ord. No. 2015-6; amended 4-4-2022 by Ord. No. 2022-04]

KT. Regulations applicable to fencing associated with surface land uses affiliated with transmission pipelines are set forth in § 170-1612A(3)(b). [Added 7-17-2017 by Ord. No. 2017-2]