

# **TOWNSHIP OF LOWER MERION**

## ***Building & Planning Department***

### **Memorandum**

**Topic:** Zoning Code Workshop – Draft 3.1 (Continued from October 30, 2019)

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**Date:** November 5, 2019

#### **Background**

At the October 30<sup>th</sup> Building & Planning Committee meeting the Board considered proposed revisions to the Zoning Code that have been drafted since the September 18th Public Hearing on the Zoning Ordinance. A handful of outstanding items are outlined below, which require further discussion.

#### **1. Institutional Zoning: Density**

Staff is working with the Solicitor to add language to clarify density calculations for properties with multiple uses. When lot area is the method for establishing density limits (i.e. land area per dwelling unit), the lot area designated for one use cannot be used to calculate density for another use on the property.

#### **2. Predominant Setbacks: Residential Districts**

A strong pattern is evident in many of the older, walkable neighborhoods in the community. Predominant Setback requirements are intended to ensure that infill development is consistent with the established pattern – as was recommended in the Comprehensive Plan. The Montgomery County Planning Commission (MCPC) drafted new standards to apply to new buildings and additions in the denser residential districts, including LDR4, MDR1, MDR2, and MDR3. Staff recommends also applying the predominant setback standards to the LDR3 District.

A Predominant Setback is not proposed in the LDR1, and LDR2 districts because the houses are situated on larger lots where varying setbacks are more common. The LDR1 district has a minimum lot area of 90,000 sq. ft. The LDR2 district has a minimum lot area of 45,000 sq. ft.

A Predominant Setback is defined as follows: *A front setback equal to the median front setback of the existing principal buildings along a common street frontage.*

The Predominant Setback is determined by calculating the median front yard setback of existing primary structures on the same side of the street as the subject property, and within 200 feet on either side of the subject property as measured along the street line, excluding structures located in a non-residential zoning district and rear lots.

The Predominant Setback will not be used if there are fewer than three qualifying primary structures within 200 feet, in which case new buildings will be required to conform to the front yard setbacks of the underlying district.

### **3. Institutional Zoning: Clarify “Abutting” or “Adjacency” Provisions**

The current Draft proposes that the impervious surface and front yard setbacks for each lot within an Institutional District be established by their relationship to most restrictive abutting district. This approach acknowledges that most Institutional Uses are located within established single-family residential neighborhoods and are currently permitted as Special Exception Uses within residential zoning districts. As such, most of the Institutional Uses have been developed to the impervious surface and front yard setback regulations of their surrounding residential context. The Zoning Update proposes eliminating the Special Exception process by establishing freestanding Institutional Districts with specific use, density and dimensional standards.

Last week’s discussion raised several concerns with this approach:

- Lack of clarity in determining the standards of each Institutional District.
- Lack of uniformity resulting from linking the impervious and front yard setbacks within the Institutional Districts to surrounding districts.
- Potential unfairness of establishing standards based upon the relationship of a district to the most restrictive abutting district rather than the prevailing pattern.
- Potential conflicts of interpretation in cases where an Institutional District is surrounded by other Institutions and does not have reasonable adjacency.

To address these concerns, staff determined how the adjacency concept would apply to each of the proposed Institutional Districts. The analysis revealed patterns that could potentially address the identified concerns by making the new code easier to use while providing clarity.

The draft Institutional District establishes four Institutional sub-categories (IN, IC, IH, IE,). The adjacency concept ties the Impervious surface and front yard setback to the most restrictive abutting zoning district (LDR1 -LDR4, MDR1-MDR3 and VC). Analysis indicates that most Institutional uses are tied to LDR Districts, with an even distribution between each of the four single-family districts. The following chart shows the percentage of land area within each of the 4 I Districts. The chart combines LDR 1 and LDR 2 together since the impervious surface levels for both districts are almost identical (20% vs 21%)

Distribution of Applicability		
Existing Classification	Most Restrictive Adjacent District	Land Area Within District
<b>IN</b>	LDR1/LDR2	86%
<b>IC</b>	LDR1/LDR2	53%
	LDR3	28%
	LDR4*	18%
<b>IE</b>	LDR1/LDR2	52%
	LDR3	34%
	LDR4*	13%
<b>IH</b>	LDR1/LDR2	57%
	LDR3	35%
	LDR4*	8%

- LDR4 also includes outlier properties with adjacency to MDR and VC Districts.

Analysis of the distribution of adjacency of the most restrictive abutting district to the Institutional Districts shows a consistent pattern within the IC, IE and IH Districts. The pattern of distribution could be the basis for creating subdistricts within each classification to address the issues of clarity and uniformity. Additional subdistricts would increase the total number of Institutional Districts from Four to Ten. (for clarity of explanation Public Schools are consolidated within the IE District)

Distribution of Applicability with Sub Districts			
Proposed Classification	Most Restrictive Adjacent District	Land Area Within District	Proposed Sub Districts
<b>IN</b>	LDR1/LDR2	86%	<b>IN</b>
<b>IC</b>	LDR1/LDR2	53%	<b>IC1</b>
	LDR3	28%	<b>IC2</b>
	LDR4	18%	<b>IC3</b>
<b>IE</b>	LDR1/LDR2	52%	<b>IC1</b>
	LDR3	34%	<b>IC2</b>
	LDR4	13%	<b>IC3</b>
<b>IH</b>	LDR1/LDR2	57%	<b>IC1</b>
	LDR3	35%	<b>IC2</b>
	LDR4	8%	<b>IC3</b>

With the designation of Sub Districts, the following table establishes the bulk/area and impervious standards for Institutional Uses (the impervious increase column recognizes the additional impervious surface proposed for public schools within the IE District)

Proposed Institutional Zones								
Proposed Classification	Minimum Lot Width	Minimum Lot Area	Front Setback	Side Setback	Rear Setback	Impervious Surface	Impervious Increase	Adjusted IS
<b>IN</b>	150'	45,000	50'	50'	50'	21%	0%	21%
<b>IC1</b>	150'	45,000	50'	50'	50'	21%	5%	26%
<b>IC2</b>	100'	15,000	40'	50'	50'	28%	5%	33%
<b>IC3</b>	60'	7,500	25'	50'	50'	45%	5%	47%
<b>IE1</b>	150'	45,000	50'	50'	50'	21%	5%/10%	26%/31%
<b>IE2</b>	100'	15,000	40'	50'	50'	28%	5%/10%	33%/38%
<b>IE3</b>	60'	7,500	25'	50'	50'	45%	5%/10%	47%
<b>IH1</b>	150'	45,000	50'	50'	50'	21%	0%	21%
<b>IH2</b>	100'	15,000	40'	50'	50'	28%	0%	28%
<b>IH3</b>	60'	7,500	25'	50'	50'	45%	0%	45%

#### **4. Skilled Nursing**

Staff reviewed the B&P comments with the Township Solicitor and will provide additional information supporting the recommendation to cap the number of Skilled Nursing beds at 200.

#### **5. Residential Religious Uses**

Commissioner Rogan has identified concerns regarding the applicability, standards and definitions regarding “Residential Religious” uses. Residential Religious uses were originally proposed by DPZ to accommodate existing Convent and Seminary uses within the Township. A Residential Religious use is currently only permitted in the IN and the IC Districts. At the October 30<sup>th</sup> B&P Committee meeting the Board considered allowing Residential Religious uses in the Institutional Housing (IH) District.

After consultation with the Solicitor staff recommends that the term “Residential Religious” be changed to “Institutional Residential”. Staff does not recommend increasing the applicability of this use to other institutional districts until further analysis can be completed.

#### **6. Institutional Zoning: Abutting versus Prevailing Standards**

In order to address concerns regarding the potential unfairness of applying the most restrictive abutting district standards and the lack of clarity where an institution is surrounded by other institutions staff also analyzed the applicability of using *the prevailing* district standards. Initial analysis indicates that utilization of prevailing standards would result in an approximate adjustment to 20% of Institutional properties. Staff will, if there is Commissioner interest, present an example of the analysis for consideration as a future amendment after the Code is adopted.

## **7. Testing the Draft Zoning Code**

Staff has engaged the MCPC to test the Draft Zoning Code. Because of their familiarity with the Township's Comprehensive Plan and Draft Zoning Code the County is best equipped to test how the code works with Institutional, Commercial and Residential examples that would require land development. Staff has also reached out to local professionals familiar with smaller residential expansions not requiring land development to further test the Code. Staff will continue to analyze the Code utilizing GIS to ensure that the proposed zoning is properly calibrated with what is on the ground. Results of the testing will be presented at the December 4<sup>th</sup> B&P Meeting.

### **Proposed Schedule**

- **December 4<sup>th</sup>: B&P Meeting** to review MCPC Testing Results/Findings and any resulting Code amendments.
- **Tentative December 9<sup>th</sup>: PC Meeting** to review proposed revisions
- **December 18<sup>th</sup>: Board of Commissioners Meeting**