

AN ORDINANCE

NO. _____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 155, Entitled Zoning, Article II, Definitions, §155-2.1 Definition Of Terms, By Revising The Definition Of The Term New Construction, And To Amend Article III, General To Districts, §155-3.5 Frontages, By Allowing Air-conditioning Compressors In Frontage Yards As Specified In §155-3.6.G, And To Amend §155-3.6 Projections, By Adding A New §155-3.6.G To Establish Allowable Projections For Generators And Air-conditioning Units Into Required Setbacks And Frontage Yards, And To Delete §155-3.14.B, And To Amend §155-3.9 Architecture Standards, By Modifying The Minimum Exterior Window Inset Requirement in §155-3.9C(2), And To Amend Article VI, Special Districts, §155-6.8 CAD-BV City Avenue District, Bala Village, Table 6.8.1 Bala Village (CAD-BV) Density Increase Standards, By Removing The Duplicative Off-Site Traffic Improvement Incentive, And To Amend Table 6.8.2 Bala Village (CAD-BV) Dimensional Standards To Establish A Two-Story Minimum Building Height Requirement, And To Amend Article VII, Conservation & Preservation Overlays, § 155-7.1 HROD Historic Resources Overlay District, Subsection § 155-7.1.B.(3), By Requiring The Permanent Protection Of A Historic Resource Prior To The Issuance Of A Zoning Permit For A Regulated Use, And To Amend Subsection § 155-7.1.B.(4), To Clarify That A Zoning Permit Is Required For A Regulated Use, And To Amend Subsection § 155-7.1.J., Historic Resource Impact Study, By Requiring A Description Of The Impact Of The Project On All Historic Resources And Any Adjacent Historic Resource, And To Amend Article XI, Process and Procedures, § 155-11.1 Zoning Administration, Subsection § 155-11.1.H(13), By Removing An Incomplete Sentence.

The Board of Commissioners of the Township of Lower Merion hereby ordains:

Section 1. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article II, Definitions, § 155-2.1 Definition of Terms, shall be amended by revising the definition of the term New Construction to provide as follows:

Chapter 155: Zoning

Article II: Definitions

§ 155-2.1 Definition of Terms

New Construction, Floodplain: Structures for which the start of construction commenced on or after November 19, 1975, and includes any subsequent improvements thereto.

Section 2. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article III, General to Districts, shall be amended by clarifying the standards for generators and air-conditioning units in §155-3.5.F., by adding a new Subsection §155-3.6.G establishing projections for generators and air-conditioning units, and by deleting §155-3.14.B. to provide as follows:

Chapter 155: Zoning

Article III: General to Districts

§ 155-3.5 Frontages.

F. Frontage yards are subject to the requirements of **Table 3.5.1, Frontage Yard Types**, and the following:

(1) The following structures and equipment are prohibited in frontage yards:

(b) Air conditioning compressors, except as specified in § 155-3.6.G;

(c) Emergency generators, except as specified in § 155-3.6.G;

§ 155-3.6 Projections

G. Generators and air-conditioning equipment. All generators and air-conditioning equipment shall be screened from view from any frontage and from any abutting residential property, except across an alley.

(1) If there is insufficient space for a generator to be installed at a location in compliance with the required setback, a generator may project up to four feet into the required side and rear yard setback provided the generator is placed a minimum of ten feet from the property line.

(2) On corner lots, air-conditioning equipment and generators may be placed in the front setback or the frontage yard when authorized as a special exception provided the generator and air-conditioning

equipment is placed as close to the building as possible per the manufacturer's minimum clearance specifications.

§ 155-3.14 Service and trash area standards

~~B. Air conditioning equipment (excluding self-contained window air conditioning units) and generators shall not be placed in the required front and rear setback, except that such equipment may be placed in the required front or rear setback when authorized as a special exception.~~

Section 3. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article III, General to Districts, §155-3.9 Architecture Standards, Subsection §155-3.9C(2), shall be amended by modifying the minimum exterior window inset requirements to provide as follows:

Chapter 155: Zoning

Article III: General to Districts

§ 155-3.9 Architecture Standards

C. Exterior wall materials, including building, streetscreens and garden walls and fences, windows and doors, shall be of a quality that ensures longevity and resilience. Additionally, the following regulations apply:

(2) Windows shall not be flush mounted and shall be inset from the exterior wall ~~a minimum of three inches.~~

Section 4. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article VI, Special Districts, § 155-6.8 CAD-BV City Avenue District, Bala Village, Table 6.8.1 Bala Village (CAD-BV) Density Increase Standards, shall be amended by removing the duplicative Off-Site Traffic Improvement incentive to provide as follows:

Chapter 155: Zoning

Article VI: Special Districts

§ 155-6.8 CAD-BV City Avenue District, Bala Village

Table 6.8.1 Bala Village (CAD-BV) Density Increase Standards

Amenity	Initial FAR Increase	OSTI ⁽⁺⁾	Total Increase	Regulations
Public gathering space (PGS) ⁽²⁾	0.15	0.05	0.2	<p>The public gathering space shall be maintained by the property owner. The amount of density increase shall be noted on the plan and recorded in the deed. No portion of the public gathering space may be dedicated to a specific tenant.</p> <p>(1) The public gathering space shall be designed and located so to achieve the purpose of this subsection as stated above and shall comply with the requirements detailed below.</p> <p>(a) The maximum number of separate public gathering spaces on any lot is two.</p> <p>(b) Size of the public gathering space. A minimum of 5% of the lot area shall be used as public gathering space.</p> <p>(c) Design of the public gathering space.</p> <p>[1] A rain garden may be provided. No more than 30% of the public gathering space may be devoted to a rain garden use.</p> <p>[2] A minimum of 30% of the public gathering space shall be landscaped with trees, shrubs, and mixed plantings with year-round interest.</p> <p>[3] The hard surface area of the public gathering space shall be paving materials, such as unit pavers, paving stones, or concrete. No more than 20% of the public gathering space may be concrete. If the concrete in a public gathering space is stamped concrete providing the appearance of unit pavers or paving stones, the maximum area of stamped concrete shall be 30%.</p> <p>[4] The public gathering space shall not be used for parking, loading, or vehicular access.</p> <p>[5] The area of the public gathering space or the plantings within the public gathering space shall not be used to demonstrate compliance with the greening standards.</p> <p>[6] Public gathering space may include ornamental fountains, stairways, waterfalls, sculptures, arbors, trellises, planted beds, drinking fountains, benches, awnings, canopies and similar structures.</p> <p>[7] One bicycle space shall be provided for every 300 square feet of public gathering space.</p> <p>(d) Location of public gathering space. The public gathering space shall be located where it is visible and accessible from either a public sidewalk or pedestrian connection. The public gathering space shall connect with existing or proposed public gathering spaces on abutting properties, where feasible. Public gathering space may be located along a street and is encouraged to be located between buildings or within an inner or outer court. Location of a public gathering space adjacent to a parking lot is discouraged.</p> <p>(e) The design and size of the public gathering spaces may be modified, subject to conditional use approval from the Board of Commissioners. In addition to the conditional use standards in Article 11, the following standards apply:</p> <p>[1] Where a children's play area consisting of playground equipment and/or spray fountains is provided, the minimum area devoted to landscaping and rain gardens may be reduced by up to 30%.</p>
Mixed-use buildings ⁽¹⁾	0.25	0.05	0.3	<p>(1) The allowable density may be increased by an FAR of 0.25.</p> <p>(2) The allowable density may be increased by an additional FAR of 0.05 up to a total FAR of 0.30 where the applicant installs off-site traffic improvements as determined by the Township or contributes to a City</p>

				Avenue Transportation Services Area fund held by the Township in accordance with "Section 6.8.6.f."
Underground and/or wrapped parking structures	0.5	0.05	0.55	<p>The allowable density may be increased by an FAR of 0.5 for a development where parking is in a new underground and/or wrapped parking structure.</p> <p>(1) The allowable density may be increased by an additional FAR of 0.05 to a total FAR of 0.55 where the applicant installs off-site traffic improvements as determined by the Township or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with "Section 6.8.6.f.5 Floor area ratio (FAR)."</p> <p>(2) Where the required parking is split between an underground and/or wrapped parking structure and surface parking, this density increase shall be prorated based on the percentage of the required parking in the underground and/or wrapped parking structure.</p>
Transit facility improvements	0.05	0.05	0.1	<p>The allowable density may be increased by up to an FAR of 0.05 for a development where accommodations to encourage mass transit are provided. Such accommodations include the construction of new bus shelters along a public roadway and/or the installation of electronic mass transit schedule boards. The applicant shall submit documentation from the appropriate transit authority approving the design and location of the transit facility improvements.</p> <p>(1) The allowable density may be increased by an additional FAR of 0.05 to a total FAR of 0.1 where the applicant installs off-site traffic improvements as determined by the Township or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with "Section 6.8.6.f."</p>
Historic preservation	0.2	0.05	0.25	<p>The allowable density may be increased by up to an FAR of 0.2 for a development where a resource listed on the Township Historic Resource Inventory is preserved or renovated in compliance with the Secretary of the Interior's standards.</p> <p>(1) The allowable density may be increased by an additional FAR of 0.05 to a total FAR of 0.15 where the applicant installs off-site traffic improvements as determined by the Township or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with "Section 6.8.5 Floor area ratio (FAR)."</p>
Off-site traffic improvements	0.2	0	0.25	<p>The allowable density may be increased by an FAR of up to 0.2 for a development where the applicant installs off-site traffic improvements as determined by the Township or contributes to a City Avenue Transportation Services Area Fund held by the Township, subject to the following provisions:</p> <p>(1) Roadway improvements shall comply with the 2010 Transportation Capital Improvements Plan prepared for the City Avenue Transportation Services Area. The Township may also authorize improvement of intersections or roadways outside the district that are impacted by the proposed development.</p> <p>(a) When the applicant is installing the roadway improvement, the Township Engineer shall determine the scope of the roadway improvements installed.</p> <p>(b) Construction cost estimates shall be provided by the applicant and approved by the Township Engineer. The cost of the improvements shall be calculated as noted below:</p> <p>[1] The off-site traffic improvements or payment in-lieu shall equal \$20 per sq. ft. generated by the total additional floor area constructed under § 155-6.8M.</p> <p>(2) When a fee in lieu of the improvements is made, the funds shall be administered in accordance with the provisions established in § 135-66 of the Subdivision and Land Development chapter.</p>
Sustainable design (Reserved)	Reserved	Reserved	Reserved	
Affordable housing (Reserved)	Reserved	Reserved	Reserved	

Notes

1. ~~OSTI is an off-site traffic improvement.~~ In order to qualify for the density increases in this section, the building must be mixed-use.
2. In order to qualify for the density increases in this section, public gathering space shall be provided.

Section 5. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article VI, Special Districts, § 155-6.8 CAD-BV City Avenue District, Bala Village, Table 6.8.2 Bala Village (CAD-BV) Dimensional Standards, shall be amended by requiring a minimum two-story building height to provide as follows:

Chapter 155: Zoning

Article VI: Special Districts

§ 155-6.8 CAD-BV City Avenue District, Bala Village

Table 6.8.2 Bala Village (CAD-BV) Dimensional Standards	

Building Height (feet)	
Along City Avenue	<u>2 stories minimum, up to</u> 65 maximum
Buildings between North Highland Avenue and Montgomery Avenue	<u>2 stories minimum, up to</u> 60 maximum ⁵
Buildings between Bala Avenue and the Cynwyd Rail Line from City Avenue to Montgomery Avenue	<u>2 stories minimum, up to</u> 60 maximum ^{5,6}
Buildings along westerly side of Bala Avenue between Aberdale Road and North Highland Avenue and all other streets	<u>2 stories minimum, up to</u> 49 maximum ⁵

Section 6. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article VII, Special Districts, § 155-7.1 HROD Historic Resources Overlay District, Subsection § 155-7.1.B.(3), shall be amended by requiring the permanent protection of the historic resource prior to the issuance of a zoning permit and Subsection § 155-7.1.B.(4), shall be amended by clarifying that a zoning permit is required for a regulated use to provide as follows:

Chapter 155: Zoning

Article VII: Conservation & Preservation Overlays

§ 155-7.1. HROD Historic Resources Overlay District.

B. Applicability.

- (3) A means to guarantee the permanent protection of the historic integrity of the subject resource(s), such as the establishment of conservation easements(s) or appropriate covenants in a form acceptable to the Township Solicitor, shall be provided prior to the granting of any conditional use approval and/or prior to the issuance of a zoning permit for a regulated use listed in Table 7.1.1 Historic Resource Uses.

- (4) A use other than that permitted by the underlying district may only be permitted, provided that the following conditions are met:
- (a) The use shall be contained within the historic buildings or structures unless otherwise specifically permitted.
 - (b) Obtaining a recommendation by the Historical Commission or Board of Historical Architectural Review (HARB) (if the property is in an historic district).
 - (c) Obtaining a zoning permit approval for a regulated use, or ~~conditional use~~ approval by the Board of Commissioners (BOC) for a conditional use.

Section 7. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article VII, Special Districts, § 155-7.1 HROD Historic Resources Overlay District, Subsection § 155-7.1.J., Historic Resource Impact Study, shall be amended by requiring a description of the impact of the project on all historic resources and any adjacent historic resource to provide as follows:

Chapter 155: Zoning

Article VII: Conservation & Preservation Overlays

§ 155-7.1. HROD Historic Resources Overlay District.

J. Historic resource impact study.

- (2) Contents. The study shall contain the following information unless the Director of Building and Planning determines them to be not pertinent to the application:

(b) Proposed change

- [1] General description and site plan of the project, including time table or phases.
- [2] Description of impact on each contributing element within the ~~Class 1 or Class 2~~ Historic Resource and any adjacent Historic Resource on the same lot or on a different lot identified in Article XI, Process and Procedures, with regard to architectural integrity, historic setting and future use.
- [3] General description of effect of noise and traffic and other impacts generated by the proposed change on any contributing element within the ~~Class 1 or Class 2~~ Historic Resource and any adjacent Historic Resource on the same lot or on a different lot identified in Article XI, Process and Procedures.

Section 8. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XI, Process and Procedures, § 155-11.1 Zoning Administration, Subsection § 155-11.1.H(13), shall be amended by removing an incomplete sentence to provide as follows:

Chapter 155: Zoning

Article XI: Process and Procedures

§ 155-11.1. Zoning administration.

H. Additional requirements for conditional use approval for historic resources regulated by § 155-7.1, HROD Historic Resource Overlay District.

- (13) The applicant must comply with the parking requirements for the proposed use as set forth in Article VIII, Parking Standards. The Board of Commissioners may prohibit any additional parking between the right-of-way and the facade of the building if the Board finds such parking would negatively impact the historical integrity of the resource. ~~Special accessory events which may generate an unusual volume of traffic beyond that normally generated by a permitted use on a daily basis, such as fund-raising events, recitals, stage performances, lectures and exhibitions, etc.~~

Section 9. Nothing in this Ordinance or in the Code of the Township of Lower Merion, as hereby amended, shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Code of the Township of Lower Merion prior to the adoption of this amendment.

Section 10. The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Board that this ordinance would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

Section 11. The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Board that this ordinance would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

Section 12. This Ordinance shall take affect and be in force from and after its approval as required by law.

Approved by the Board this _____ day of _____, 2020.

BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF LOWER MERION

Daniel S. Bernheim, President

ATTEST:

Jody L. Kelley, Secretary