

TOWNSHIP OF LOWER MERION

BUILDING AND PLANNING COMMITTEE

**Wednesday, June 11, 2025
6:30 PM (Approximately)**

Chairperson: Joshua Grimes
Vice Chairperson: Sean Whalen, Jeremiah Woodring

AGENDA

1. **AUTHORIZATION TO RELEASE FUNDS HELD IN ESCROW**
2. **RESOLUTION - AUTHORIZATION OF APPOINTMENT TO THE ARDMORE
INITIATIVE BOARD OF DIRECTORS**
3. **APPROVAL OF CERTIFICATES OF APPROPRIATENESS**
4. **ADVANCE RELEASE FOR INFORMATION ONLY - NO PRESENTATION OR
DISCUSSION THIS MONTH - AUTHORIZATION TO ADVERTISE ORDINANCE
CHAPTER 155, ZONING - MODERATE-INCOME HOUSING (MIH) - Z-25-001**
5. **ADVANCE RELEASE FOR INFORMATION ONLY - NO PRESENTATION OR
DISCUSSION THIS MONTH - AUTHORIZATION TO ADVERTISE ORDINANCE
CHAPTER 155, ZONING - MINOR ZONING EDITS ROUND 7 - Z-24-005**



AGENDA ITEM INFORMATION

ITEM: AUTHORIZATION TO RELEASE FUNDS HELD IN ESCROW

Consider for recommendation to the Board of Commissioners approval to release funds held in escrow as Improvement Guarantees in accordance with §135-7 of the Township Code for the following:

211 Belmont Avenue (LOWM 248.40)
LCB Senior Living Development
Escrow Release No. 6 (FINAL)
Amount \$ 8,630.00

37 Simpson Road Subdivision (LOWM 256.57)
Escrow Release No. 1 (FINAL)
Amount \$ 150,650.00

PUBLIC COMMENT

ATTACHMENTS:

| Description | Type |
|--|-----------------|
|  Escrow Release Letters | Backup Material |



**TOWNSHIP
OF
LOWER MERION**
MONTGOMERY COUNTY

TOWNSHIP ENGINEER

75 E. Lancaster Avenue
Ardmore, PA 19003 2376
Telephone: (610) 645-6200
www.lowermerion.org

LOWM 248.40

June 2, 2025

Christopher Leswing, Director of Building and Planning
Township of Lower Merion
75 East Lancaster Avenue
Ardmore, PA 19003

**Re: 211 Belmont Avenue
LCB Senior Living Development
Escrow Release No. 6 - FINAL**

Dear Mr. Leswing:

We have received a request for release of escrow for the referenced permit. Based on our field investigations, we recommend a release as follows:

| <u>ITEM</u> | <u>TOTAL AMOUNT</u> | <u>AMOUNT THIS RELEASE</u> | <u>TOTAL RELEASED</u> | <u>AMOUNT TO REMAIN</u> |
|--|-------------------------|--------------------------------|---------------------------|-----------------------------|
| A. Site Preparation | | | | |
| 1. Building Demolition/Dust Control | \$ 50,000.00 | \$ 0.00 | \$ 50,000.00 | \$ 0.00 |
| 2. Impervious/Curb Demo | 25,000.00 | 0.00 | 25,000.00 | 0.00 |
| 3. Utility Removal/Seal | <u>10,000.00</u> | <u>0.00</u> | <u>10,000.00</u> | <u>0.00</u> |
| Subtotal A | \$ 85,000.00 | \$ 0.00 | \$ 85,000.00 | \$ 0.00 |
| B. Erosion and Sediment Control | | | | |
| 4. Construction Entrance | \$ 2,200.00 | \$ 0.00 | \$ 2,200.00 | \$ 0.00 |
| 5. Concrete Washout | 2,500.00 | 0.00 | 2,500.00 | 0.00 |
| 6. Inlet Protection | 2,400.00 | 0.00 | 2,400.00 | 0.00 |
| 7. Stabilization Netting | 5,250.00 | 0.00 | 5,250.00 | 0.00 |
| 8. 18" Filter Sock | 11,550.00 | 0.00 | 11,550.00 | 0.00 |
| 9. Final Grading & Stabilization | <u>5,000.00</u> | <u>0.00</u> | <u>5,000.00</u> | <u>0.00</u> |
| Subtotal B | \$ 28,900.00 | \$ 0.00 | \$ 28,900.00 | \$ 0.00 |
| C. Sanitary Sewer | | | | |
| 10. 6" PVC | \$ 35,625.00 | \$ 0.00 | \$ 35,625.00 | \$ 0.00 |
| 11. Manhole | 6,000.00 | 0.00 | 6,000.00 | 0.00 |
| 12. Sanitary Sewer Testing | 2,500.00 | 0.00 | 2,500.00 | 0.00 |
| 13. Connection to Main | <u>1,000.00</u> | <u>0.00</u> | <u>1,000.00</u> | <u>0.00</u> |
| Subtotal C | \$ 45,125.00 | \$ 0.00 | \$ 45,125.00 | \$ 0.00 |

| | <u>ITEM</u> | <u>TOTAL AMOUNT</u> | <u>AMOUNT THIS RELEASE</u> | <u>TOTAL RELEASED</u> | <u>AMOUNT TO REMAIN</u> |
|-----------|--|-------------------------|--------------------------------|---------------------------|-----------------------------|
| D. | Stormwater Management | | | | |
| 14. | 8" HDPE | \$ 875.00 | \$ 0.00 | \$ 875.00 | \$ 0.00 |
| 15. | 12" HDPE | 1,600.00 | 0.00 | 1,600.00 | 0.00 |
| 16. | 15" HDPE | 15,600.00 | 0.00 | 15,600.00 | 0.00 |
| 17. | Type M Inlets | 15,000.00 | 0.00 | 15,000.00 | 0.00 |
| 18. | Yard Drain Inlets | 2,000.00 | 0.00 | 2,000.00 | 0.00 |
| 19. | Storm Manhole | 6,000.00 | 0.00 | 6,000.00 | 0.00 |
| 20. | Endwall | 2,500.00 | 0.00 | 2,500.00 | 0.00 |
| 21. | Headwall | 2,500.00 | 0.00 | 2,500.00 | 0.00 |
| 22. | 4" Underdrain Pipe | 1,620.00 | 0.00 | 1,620.00 | 0.00 |
| 23. | Trench Drain | 3,000.00 | 0.00 | 3,000.00 | 0.00 |
| 24. | Riprap Apron | 2,000.00 | 0.00 | 2,000.00 | 0.00 |
| 25. | Cleanout | 250.00 | 0.00 | 250.00 | 0.00 |
| 26. | Temporary Basins | 100,000.00 | 0.00 | 100,000.00 | 0.00 |
| 27. | System No. 1 & Outlet Structure | 100,000.00 | 0.00 | 100,000.00 | 0.00 |
| 28. | System No. 2 & Outlet Structure | 20,000.00 | 0.00 | 20,000.00 | 0.00 |
| 29. | System No. 3 & Outlet Structure | 10,000.00 | 0.00 | 10,000.00 | 0.00 |
| | Subtotal D | \$ 282,945.00 | \$ 0.00 | \$ 282,945.00 | \$ 0.00 |
| E. | Miscellaneous | | | | |
| 30. | Concrete Curb | \$ 52,500.00 | \$ 0.00 | \$ 15,750.00 | \$ 0.00 |
| 31. | Pavement/Concrete Slab | 25,000.00 | 0.00 | 25,000.00 | 0.00 |
| 32. | Sidewalk | 43,200.00 | 0.00 | 43,200.00 | 0.00 |
| 33. | Crosswalk Pavement Marking | 5,000.00 | 0.00 | 5,000.00 | 0.00 |
| 34. | Pedestrian Flashing Beacon | 85,000.00 | 0.00 | 85,000.00 | 0.00 |
| 35. | Road Control Monuments | 800.00 | 0.00 | 800.00 | 0.00 |
| 36. | Fence | 33,750.00 | 0.00 | 33,750.00 | 0.00 |
| 37. | Retaining Wall | 400,000.00 | 0.00 | 400,000.00 | 0.00 |
| 38. | Traffic Control Signs/Wayfinding Signs | 2,500.00 | 0.00 | 2,500.00 | 0.00 |
| 39. | Potential Left Turn Lane | 7,500.00 | 0.00 | 7,500.00 | 0.00 |
| 40. | Traffic Control for ROW work | 7,500.00 | 0.00 | 7,500.00 | 0.00 |
| 41. | Pavement Marking | 2,500.00 | 0.00 | 2,500.00 | 0.00 |
| 42. | Maintenance/Protection of Traffic | 5,000.00 | 0.00 | 5,000.00 | 0.00 |
| 43. | Vehicular Bridge | 105,000.00 | 0.00 | 105,000.00 | 0.00 |
| 44. | Pedestrian Bridge | 75,000.00 | 0.00 | 75,000.00 | 0.00 |
| 45. | Entrance Apron | 2,000.00 | 0.00 | 2,000.00 | 0.00 |
| 46. | Bike Rack | 2,500.00 | 0.00 | 2,500.00 | 0.00 |
| 47. | Post Development Traffic Study | 3,000.00 | 3,000.00 | 3,000.00 | 0.00 |
| 48. | As-Built Plan | 1,500.00 | 0.00 | 1,500.00 | 0.00 |
| | Subtotal E | \$ 859,250.00 | \$ 3,000.00 | \$ 859,250.00 | \$ 0.00 |

| | <u>TOTAL AMOUNT</u> | <u>AMOUNT THIS RELEASE</u> | <u>TOTAL RELEASED</u> | <u>AMOUNT TO REMAIN</u> |
|---|----------------------------|--------------------------------|---------------------------|-----------------------------|
| F. Landscaping & Lighting | | | | |
| 49. Evergreen Trees | \$ 33,300.00 | \$ 0.00 | \$ 33,300.00 | \$ 0.00 |
| 50. Deciduous Trees | 397,800.00 | 0.00 | 397,800.00 | 0.00 |
| 51. Shrubs | 47,840.00 | 0.00 | 47,840.00 | 0.00 |
| 52. Perennials | 2,500.00 | 0.00 | 2,500.00 | 0.00 |
| 53. Ornamental Grasses | 4,000.00 | 0.00 | 4,000.00 | 0.00 |
| 54. Ground Coverings | 2,500.00 | 0.00 | 2,500.00 | 0.00 |
| 55. Site Lights | <u>135,000.00</u> | <u>0.00</u> | <u>135,000.00</u> | <u>0.00</u> |
| Subtotal F | \$ 622,940.00 | \$ 0.00 | \$ 622,940.00 | \$ 0.00 |
| Subtotal A thru F | \$ 1,924,160.00 | \$3,000.00 | \$1,924,160.00 | \$0.00 |
| Engineering & Contingencies | <u>192,416.00</u> | <u>300.00</u> | <u>192,416.00</u> | <u>0.00</u> |
| Total Cost of Improvements | \$ 2,116,576.00 | \$3,300.00 | \$2,116,576.00 | \$ 0.00 |
| Plus 10% | <u>211,658.00</u> | <u>330.00</u> | <u>211,658.00</u> | <u>0.00</u> |
| 110% of the Cost of Improvements per Section 509 of the Municipal Code | \$2,328,234.00 | \$3,630.00 | \$2,328,234.00 | \$ 0.00 |
| Retainage | | <u>5,000.00</u> | <u>0.00</u> | <u>0.00</u> |
| Balance | | \$8,630.00 | \$2,328,234.00 | \$ 0.00 |
| TOTAL | | | | |
| Release to Developer | | \$8,630.00 | | |
| Balance To Remain in Escrow Account | | | | <u>\$0.00</u> |

We recommend a release of escrow in the amount of \$8,630.00. As there is currently a balance of \$8,630.00, following this release of \$8,630.00, the balance remaining in the account will be \$0.00, and the account will be closed.

Two Declarations of Completion are attached and must be signed and dated by the Township Manager following authorization by the Board of Commissioners.

Please advise if we may be of further assistance in this matter.

Sincerely,



Joseph A. Mastronardo, P.E.

PENNONI ASSOCIATES

Township Engineer

cc: Colleen Hall, Senior Planner
LCB Bala Cynwyd, LLC
Bohler Engineering, 1515 Market Street, Suite 920, Philadelphia, PA 19102



**TOWNSHIP
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MONTGOMERY COUNTY

TOWNSHIP ENGINEER

75 E. Lancaster Avenue
Ardmore, PA 19003 2376
Telephone: (610) 645-6200
www.lowermerion.org

LOWM 256.57

June 2, 2025

Christopher Leswing, Director of Building and Planning
Township of Lower Merion
75 East Lancaster Avenue
Ardmore, PA 19003

**Re: 37 Simpson Road Subdivision
Release of Guarantee – No. 1 (FINAL)**

Dear Mr. Leswing:

We have received a request for release of guarantee funds for the referenced permits. Based on our field investigations, we recommend a release as follows:

| <u>ITEM</u> | <u>TOTAL AMOUNT</u> | <u>AMOUNT THIS RELEASE</u> | <u>TOTAL RELEASED</u> | <u>AMOUNT TO REMAIN</u> |
|---|-------------------------|------------------------------------|---------------------------|---------------------------------|
| 1. Construction Entrance | \$1,200.00 | \$1,200.00 | \$1,200.00 | \$0.00 |
| 2. Demolition | 20,000.00 | 20,000.00 | 20,000.00 | 0.00 |
| 3. Tree Protection Fence | 10,000.00 | 10,000.00 | 10,000.00 | 0.00 |
| 4. Silt Fence/Sock | 4,250.00 | 4,250.00 | 4,250.00 | 0.00 |
| 5. Inlet Protection | 1,400.00 | 1,400.00 | 1,400.00 | 0.00 |
| 6. Stabilization Netting | 2,450.00 | 2,450.00 | 2,450.00 | 0.00 |
| 7. Diversion Sock | 3,000.00 | 3,000.00 | 3,000.00 | 0.00 |
| 8. Paved Diversion Berm | 2,000.00 | 2,000.00 | 2,000.00 | 0.00 |
| 9. Connection to Storm Sewer | 1,500.00 | 1,500.00 | 1,500.00 | 0.00 |
| 10. Temporary Basin, Outlet Structures | 10,000.00 | 10,000.00 | 10,000.00 | 0.00 |
| 11. Property Markers | 2,700.00 | 2,700.00 | 2,700.00 | 0.00 |
| 12. Sidewalk | 43,500.00 | 43,500.00 | 43,500.00 | 0.00 |
| 13. As-Built Plan | 1,000.00 | 1,000.00 | 1,000.00 | 0.00 |
| 14. Shade Trees | 6,500.00 | 6,500.00 | 6,500.00 | 0.00 |
| 15. Impacted Trees | 5,000.00 | 5,000.00 | 5,000.00 | 0.00 |
| 16. Final Grading & Stabilization | <u>10,000.00</u> | <u>10,000.00</u> | <u>10,000.00</u> | <u>0.00</u> |
| SUBTOTAL | \$124,500.00 | \$124,500.00 | \$124,500.00 | \$0.00 |
| Engineering & Contingencies | <u>12,450.00</u> | <u>12,450.00</u> | <u>12,450.00</u> | <u>0.00</u> |
| TOTAL | \$136,950.00 | \$136,950.00 | \$136,950.00 | \$0.00 |
| Plus 10% | <u>13,700.00</u> | <u>13,700.00</u> | <u>13,700.00</u> | <u>0.00</u> |
| 110% of the Cost of Improvements per Section 509 of the Municipal Code | \$150,650.00 | \$150,650.00 | \$150,650.00 | \$0.00 |

Release to Developer**\$150,650.00****Balance Remaining in Account****\$0.00**

We recommend a reduction of escrow in the amount of \$150,650.00. As there is currently a balance of \$150,650.00, following this reduction of \$150,650.00, the balance remaining in the account will be \$0.00 and the account will be closed.

Two Declarations of Completion are attached and must be signed and dated by the Township Manager following authorization of the Board of Commissioners.

Please advise if we may be of further assistance in this matter.

Sincerely,

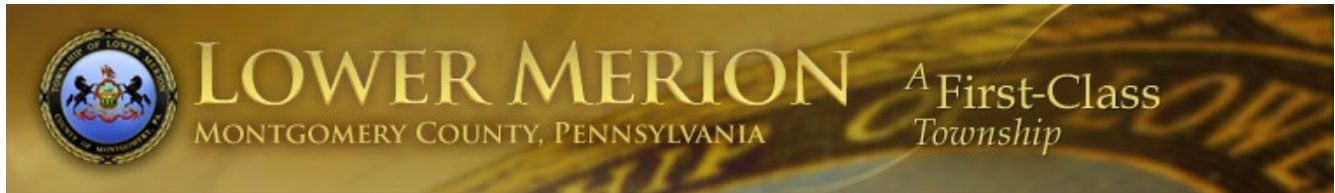


Joseph A. Mastronardo, PE

PENNONI ASSOCIATES

Township Engineer

cc: Colleen Hall, Senior Planner
Angela Forney, Planning Technician
John Rayer and Sons LLC, 12 Church Rd, Media PA 19063



AGENDA ITEM INFORMATION

ITEM: RESOLUTION - AUTHORIZATION OF APPOINTMENT TO THE ARDMORE INITIATIVE BOARD OF DIRECTORS

Consider for recommendation to the Board of Commissioners adoption of a Resolution to appoint Peter Spain to the Board of Directors of the Ardmore Initiative for a term that expires January 7, 2030.

PUBLIC COMMENT

ATTACHMENTS:

| Description | Type |
|---|----------------|
| <input type="checkbox"/> Issue Briefing | Issue Briefing |
| <input type="checkbox"/> Resolution | Resolution |

TOWNSHIP OF LOWER MERION

Building & Planning Committee

Issue Briefing

Topic: Consider for approval a resolution to appoint Peter Spain to the Board of Directors of the Ardmore Initiative Municipal Business District Authority

Prepared by: Christopher Leswing, Director, Building and Planning Department

Date: June 6, 2025

I. Action To Be Considered By The Board:

Adopt a resolution to appoint Peter Spain to the Board of Directors of the Ardmore Initiative for a five-year term.

II. Why This Issue Requires Board Consideration:

The Articles of Incorporation of the Ardmore Initiative state that the Board of Directors must be appointed by the governing body of the Township of Lower Merion through a resolution of the Board of Commissioners.

III. Current Policy Or Practice (If Applicable):

The Board of Commissioners has generally approved nominations presented by the Ardmore Initiative in accordance with the Articles of Incorporation.

IV. Other Relevant Background Information:

The Ardmore Initiative Board supports the nomination. The five-year terms would begin following approval and expire on January 7, 2030. Brief biographical information on Mr. Spain is attached to this agenda item.

V. Impact on Township Finances:

There is no impact on Township finances.

VI. Staff Recommendation

Staff recommends that the Board of Commissioners approve the resolution.

Ardmore Initiative Board of Directors Appointments

Peter Spain

Peter Spain's career in real estate spans over 25 years. After graduating with a BS from Babson College in 1993, he returned to work full time in his family's retailing business, Dollar Express, Inc. Peter's primary responsibility as Vice President Real Estate included store location analysis and expansion, lease negotiation, sourcing and construction management.

In May of 2000, with over 120 stores in the Mid-Atlantic region and annual sales of \$200M, the company sold to Dollar Tree, Inc. After the sale, Peter led the Spain Group in the purchase and/or redevelopment of metro Philadelphia commercial properties. From 2003 to 2016 the Spain Group realized over \$9M in gains and continues to manage multiple real estate assets in the greater Philadelphia region.

While Peter will always be a retailer in spirit, he began a career focusing on multifamily development and in 2012 co-founded Core Development, a multi-family housing and mixed-use development company. Core Development has built and/or renovated properties in Philadelphia, Montgomery, and Chester counties. In downtown Ardmore, Core Development built and/or renovated the Cricket Flats (77 units residential / 5 commercial spaces), 11 Cricket Avenue (4 residential / 1 commercial space), and 2 E Lancaster Avenue (2 commercial spaces). An affiliate of Core Development, Core Property Management has over 400 residential units under management.

Peter lives in Lower Gwynedd Township with his wife Tracy -- and Labradoodle, Hudson. He has two adult children.

TOWNSHIP OF LOWER MERION

RESOLUTION NO. _____

**RESOLUTION APPOINTING MEMBERS TO THE
BOARD OF DIRECTORS OF THE ARDMORE INITIATIVE
FOR TERMS EXPIRING JANUARY 2030**

WHEREAS, vacancies currently exist on the Board of Directors of the Ardmore Initiative, and

WHEREAS, the Articles of Incorporation and By-Laws, as amended, of the Ardmore Initiative provide that a member of the Board of Directors be appointed by the governing body of the Township of Lower Merion through a resolution of the Board of Commissioners.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Township of Lower Merion that the following individuals are hereby appointed to the Board of Directors of the Ardmore Initiative to serve the term(s) indicated:

| <u>Name</u> | <u>Term Commences</u> | <u>Term Expires</u> |
|-------------|-----------------------|---------------------|
| Peter Spain | June 18, 2025 | January 7, 2030 |

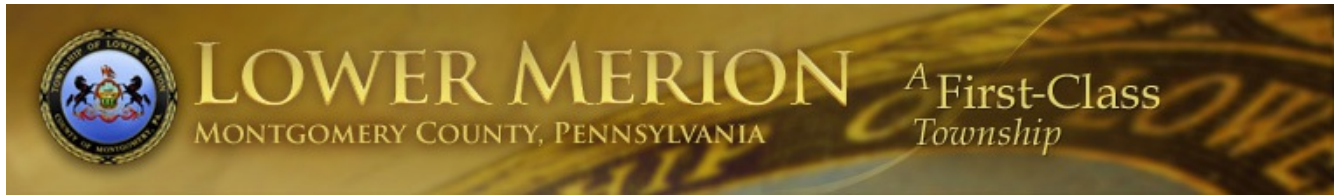
ENACTED by the Board of Commissioners of the Township of Lower Merion the
_____ day of _____, 2025.

BOARD OF COMMISSIONERS
TOWNSHIP OF LOWER MERION

By: _____
Todd M. Sinai, President

ATTEST:

Jody L. Kelley, Secretary



AGENDA ITEM INFORMATION

ITEM: APPROVAL OF CERTIFICATES OF APPROPRIATENESS

Consider for recommendation to the Board of Commissioners approval of the following certificates of appropriateness as recommended by the Historical Architectural Review Board at their meeting held on June 3, 2025:

a) 7 East Lancaster Avenue, Ardmore Commercial Historic District, 25-14 – approval to replace one existing rooftop cellular antenna and add one antenna to an existing sled mount on the rooftop, citing Secretary of the Interior’s Standards 9 and 10.

b) 29 West Lancaster Avenue, Ardmore Commercial Historic District, 25-15 – approval of the completion of the unapproved painting of brick facades, citing Secretary of the Interior’s Standards 7, and 9, subject to confirmation to staff of the exact masonry paint product used, that the electrical conduit be painted to match, and that holes in the masonry be patched.

PUBLIC COMMENT

ATTACHMENTS:

| Description | Type |
|--|-----------------|
|  Slides | Backup Material |



7 East Lancaster Avenue, Ardmore Commercial Historic District

25-14

HARB

2

Action:

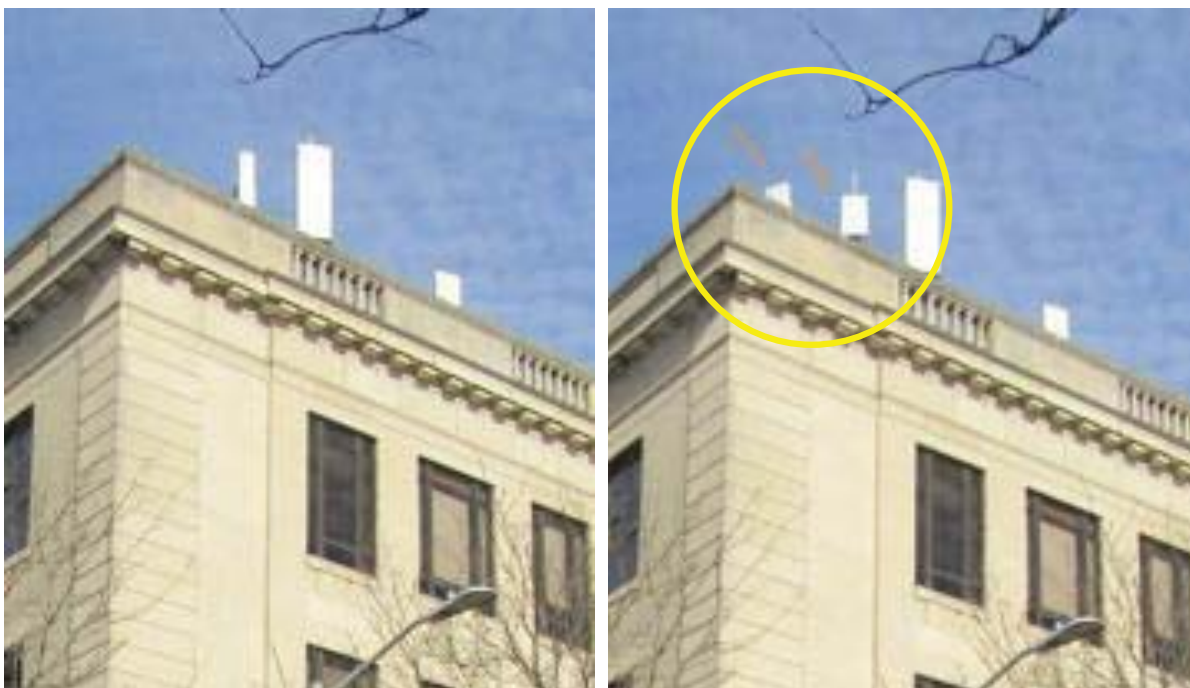
Approval to replace one existing rooftop cellular antenna and add one antenna to an existing sled mount on the rooftop, citing Secretary of the Interior's Standards 9 and 10.

3



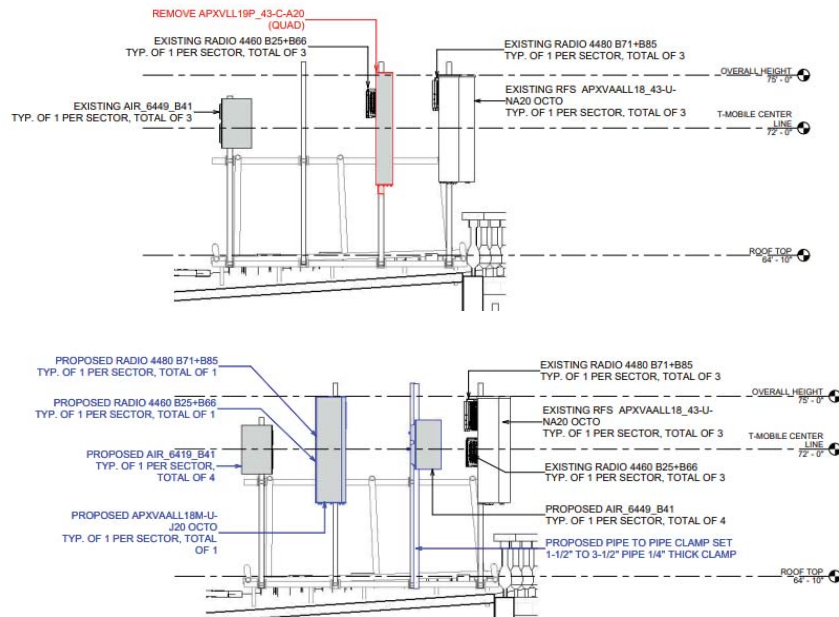
Rooftop Antennas: Existing (left) and proposed (right)

4



Enlargement - Rooftop Antennas: Existing (left) and proposed (right)

5



Existing (top) and proposed (bottom): One new antenna, one antenna replaced

6



29 West Lancaster Avenue, Ardmore Commercial Historic District

25-15

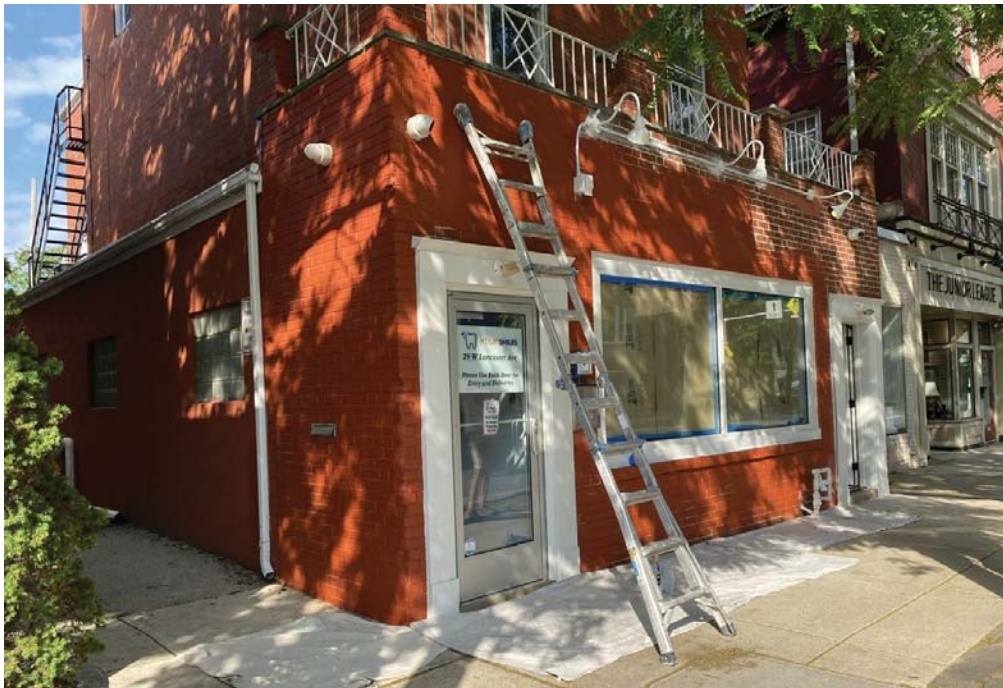
HARB

7

Action:

Approval of the completion of the unapproved painting of brick facades, citing Secretary of the Interior's Standards 7, and 9, subject to confirmation to staff of the exact masonry paint product used, that the electrical conduit be painted to match, and that holes in the masonry be patched.

8



Work was stopped when the unapproved painting work was observed

9



Work was stopped when the unapproved painting work was observed

10



Work was stopped when the unapproved painting work was observed

11

Painting Brick

HARB typically does not recommend painting brick due to its irreversible physical change to the material. Some facades in the Historic District, including the nearby Junior League building, were painted prior to the creation of the District and repainted more recently to replicate a more accurate brick color.

HARB has worked with applicants proposing mural art projects, for example, to prevent this kind of material alteration, resulting in the installation of removable panels attached to brick walls rather than allowing paint to be applied directly to unpainted surfaces.

12

Additional HARB Comment

This recommendation is being made based on the unique circumstances of this project and is not intended to set a precedent for allowing the painting of brick. While HARB does not generally approve painting unpainted masonry, other factors unique to the circumstances of this property were considered, including that the paint was applied to a later addition onto the original historic structure and that removing the paint would potentially have a negative impact on the physical fabric of the building.

13



AGENDA ITEM INFORMATION

ITEM: ADVANCE RELEASE FOR INFORMATION ONLY - NO PRESENTATION OR DISCUSSION THIS MONTH - AUTHORIZATION TO ADVERTISE ORDINANCE CHAPTER 155, ZONING - MODERATE-INCOME HOUSING (MIH) - Z-25-001

THIS ITEM IS ON THE AGENDA TO PROVIDE AN ADVANCE RELEASE FOR INFORMATION ONLY. NO PRESENTATION OR DISCUSSION WILL OCCUR AT THIS MEETING.

ATTACHMENTS:

| Description | Type |
|------------------|-----------------|
| ▣ Issue Briefing | Issue Briefing |
| ▣ Appendix A | Backup Material |
| ▣ Ordinance | Ordinance |

TOWNSHIP OF LOWER MERION

Building and Planning Committee

Issue Briefing

Topic: Zoning Code Amendment – Moderate Income Housing LDR3 & LDR4 (OSOD)

Prepared By: Christopher Leswing, Director, Department of Building & Planning
Colleen Hall, Senior Planner

Date: June 4, 2025

I. Action To Be Considered By The Board:

Authorize the Township Secretary to advertise a public hearing and notice of intent to adopt an Ordinance, to amend the Code of the Township of Lower Merion, Chapter 155, entitled Zoning to permit inclusionary Moderate Income Housing (MIH) as an incentive in the Open Space Overlay District (OSOD) in the LDR3 and LDR4 Districts.

II. Why This Issue Requires Board Consideration:

The Board of Commissioners approve all amendments to Township codes.

III. Current Policy Or Practice (If Applicable):

N/A

IV. Other Relevant Background Information:

The OSOD is an overlay district applicable to all residentially- zoned parcels over 5 acres. This proposed ordinance would only apply to those properties within the LDR3 and LDR4 zoning districts. Moderate-income housing is being proposed as an incentive, not as a mandatory requirement. If a development provides 30% of the total number of units as MIH housing with a minimum floor area of 1,500 square feet, the total tract density, known as the property yield, may be calculated on the total lot area and the yield frontage requirements are not applied. For developments providing 30% MIH, the density of the property would be essentially calculated at the gross of lots/square footage rather than the net area of what is left over after roads, slope penalties and frontage occupation requirements are applied. The property would still have to comply with the minimum requirements for the Preservation Area for the property that is typically 50% of the total tract area.

The proposed density incentive would result in greater density than is currently permitted by zoning, but in most instances would result in a density equal to or less than the density of the surrounding developed neighborhood.

MIH is defined in the zoning code's supplemental use regulations:

The total number of residential units and/or the amount of commercial space may be increased when an application provides on-site housing opportunities for a mix of household incomes, including both market-rate housing and housing that is affordable to moderate-income households, and provided that such units shall be so maintained by a covenant running with the land. Price and income guidelines for moderate-income households shall be as defined by the Pennsylvania Housing Finance Agency (PHFA) Keystone Home Loan Program income guidelines in effect at time of application. Developers and subsequent transferees of moderate-income units shall provide documentation showing compliance with these family incomes and rental/purchase price limits. The amount of the density increase shall be noted on the plan and recorded in the deed.

This MIH section has been successfully implemented in other mixed-use projects where an additional story is permitted in the TC1 district. There is limited application for the MIH for the LDR3 and LDR4 properties within the Township. Staff have provided the breakdown and maps (Appendix) of the current properties that the changes could apply to in the future. It is possible for other LDR3 and LDR4 properties to be consolidated in the future and then utilize these incentives in the OSOD district. Staff have also included the total number of properties in these districts, as well as their current sizes. Since this is an incentive it is completely voluntary by a developer to provide the MIH and receive the increased density.

Standards for Text or Rezoning Amendments

Staff confirmed with the Solicitor that the proposed amendments satisfy the standards for a zoning code amendment and recommend the adoption of the proposed ordinance. In anticipation of consideration for the proposed amendments, staff would like to draw attention to the standards for text or rezoning amendments, which are included in the Zoning Code:

§ 155-11.3.E.(2) Standards for text or rezoning amendments. In deciding whether to adopt or deny any proposed amendment, or to adopt some modification of the Planning Commission's recommendation, the Board of Commissioners shall consider, among other factors, the following:

- (a) Whether the proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive Plan, as adopted and amended from time to time;
- (b) Whether the proposed amendment is compatible with current and projected conditions and the overall character of development in the immediate vicinity of the subject property;
- (c) Whether the proposed amendment is the most desirable use for which the land in the subject property is adapted; and
- (d) Whether the proposed amendment will have an adverse effect on the value of properties throughout the jurisdiction.

V. Impact On Township Finances:

There is no impact on Township Finances

VI. Staff Recommendation:

Staff recommends advertisement of the code amendments.



- Legend
- LDR4_greaterthan5Acres
 - LDR3_greaterthan5Acres
 - LDR3: Low Density Residential
 - LDR4: Low Density Residential



Legend

- LDR4_greaterthan5Acres
- LDR3_greaterthan5Acres
- LDR3: Low Density Residential
- LDR4: Low Density Residential

| Properties in LDR3 | 3936 % of Total | | Properties in LDR4 | 4857 % of Total | |
|--------------------------------|------------------------|-------|------------------------------|------------------------|-------|
| Greater than 5 Acres | 12 | 0.30 | Greater than 5 Acres | 6 | 0.12 |
| Between 3-5 Acres | 10 | 0.25 | Between 3-5 Acres | 1 | 0.02 |
| Between 1-3 Acres | 201 | 5.11 | Between 1-3 Acres | 16 | 0.33 |
| Between 30,000 SF and 1 Acre | 474 | 12.04 | Between 15,000 SF and 1 Acre | 570 | 11.74 |
| Between 15,000 SF to 30,000 SF | 2136 | 54.27 | Between 7500 SF to 15,000 SF | 2687 | 55.32 |
| Below 15,000 SF | 1103 | 28.02 | Below 7500 SF | 1577 | 32.47 |



| TOWNID | COUNTYID | Location1 | Frontage | LandSF | LandAcres | LandUse | CoOwn1 | Zoning |
|---------|--------------|-------------------------|----------|---------|-----------|---------|----------------------------|--------|
| 003H218 | 400005108009 | BELMONT AVE | 0 | 267894 | 6.15 | 8900 | PENN CENTRAL RR | LDR3 |
| 007H027 | 400050660015 | RIVER ROAD | 0 | 0 | 0.00 | 0 | LOWER MERION TOWNSHIP | LDR3 |
| 003C108 | 400030236009 | 514 LANCASTER AVE | 0 | 226948 | 5.21 | 1004 | REDLEAF CORP | LDR3 |
| 004B070 | 400060688004 | 718 SUSSEX RD | 482 | 266152 | 6.11 | 5140 | KNOX REAL ESTATE GROUP LLC | LDR3 |
| 005H248 | 400035548007 | 505 MARY WATERS FORD RD | 3562 | 707502 | 16.24 | 9940 | LOWER MERION TOWNSHIP | LDR4 |
| 004H441 | 400005127008 | 222 BELMONT AVE | 372 | 283140 | 6.50 | 9940 | LOWER MERION TOWNSHIP | LDR3 |
| 002H047 | 400005100008 | 350 BELMONT AVE | 618 | 206039 | 4.73 | 9940 | LOWER MERION TOWNSHIP | LDR3 |
| 004G058 | 400035484008 | 112 MARY WATERS FORD RD | 1166 | 277913 | 6.38 | 9940 | LOWER MERION TOWNSHIP | LDR4 |
| 003J001 | 400005168012 | BELMONT AVE | 0 | 310583 | 7.13 | 9940 | LOWER MERION TOWNSHIP | LDR3 |
| 003H221 | 400005124011 | 701 BELMONT AVE | 15 | 361548 | 8.30 | 9940 | LOWER MERION TOWNSHIP | LDR3 |
| 004F107 | 400035180006 | MAPLEWOOD AVE | 1356 | 433422 | 9.95 | 9940 | LOWER MERION TOWNSHIP | LDR4 |
| 005H231 | 400035488004 | 140 MARY WATERS FORD RD | 561 | 459122 | 10.54 | 9940 | LOWER MERION TOWNSHIP | LDR4 |
| 001C164 | 400034204001 | 1300 MANOA RD | 1122 | 446926 | 10.26 | 9940 | LOWER MERION TOWNSHIP | LDR3 |
| 002B398 | 400049260002 | 1501 REMINGTON RD | 2452 | 492664 | 11.31 | 9940 | LOWER MERION TOWNSHIP | LDR4 |
| 003D150 | 400068004005 | 350 E WYNNEWOOD RD | 2244 | 460865 | 10.58 | 9940 | LOWER MERION TOWNSHIP | LDR3 |
| 010F304 | 400064765004 | 1700 WAVERLY RD | 59 | 692168 | 15.89 | 9940 | LOWER MERION TOWNSHIP | LDR3 |
| 004B081 | 400002436008 | 450 E ATHENS AVE | 2844 | 722225 | 16.58 | 9940 | LOWER MERION TOWNSHIP | LDR4 |
| 005G006 | 400035660003 | 1300 N WOODBINE AVE | 1784 | 1785089 | 40.98 | 9940 | LOWER MERION TOWNSHIP | LDR3 |

AN ORDINANCE

NO. _____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 155, Entitled Zoning, Article VII, Conservation And Preservation Overlays, §§ 155-7.2, OSOD Open Space Overlay District, Subsection (D), Maximum Density And Minimum Preservation Area, And Subsection (H), Transfer Of Development Rights, To Establish Density Incentives For Moderate-Income Housing (MIH) Located In The OSOD Overlay And Either The LDR3 Or LDR4 Districts.

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 VII, Conservation and Preservation Overlays, § 155-7.2, OSOD Open Space Overlay District, Subsection (D), Maximum density and minimum preservation area, Maximum density, is hereby amended as follows:

§ 155.7.2 OSOD Open Space Overlay District

- D. Maximum density and minimum preservation area. The following development standards apply to all development in this district, except as is provided for in §155-7.2.H, Moderate-Income Housing (MIH).

Section 2. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article VII, Conservation and Preservation Overlays, § 155-7.2, OSOD Open Space Overlay District, Subsection (H), Transfer of development rights. (Reserved), is hereby deleted and shall be replaced with a new Subsection (H), Moderate Income Housing, which shall provide as follows:

§ 155.-7.2 OSOD Open Space Overlay District

- H. ~~Transfer of development rights. (Reserved)~~ Moderate-Income Housing (MIH)
- (1) For developments in the LDR3 and LDR4 Districts in which 30% or more of the total number of units are guaranteed MIH with a minimum floor area of 1,500 square feet, the total tract density

(yield) may be calculated on total lot area, and the yield frontage requirements shall not apply.

Section 3. Nothing in this Ordinance or in Chapter 155 of 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 Chapter 155 prior to the adoption of this amendment.

Section 4. 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 5. 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 6. This Ordinance shall take affect and be in force from and after its approval as required by law.

Approved by the Board of Commissioners of the Township of Lower Merion this _____ day of _____, 20_____.

BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF LOWER MERION

Todd M. Sinai, President

ATTEST:

Jody L. Kelley, Secretary



AGENDA ITEM INFORMATION

ITEM: ADVANCE RELEASE FOR INFORMATION ONLY - NO PRESENTATION OR DISCUSSION THIS MONTH - AUTHORIZATION TO ADVERTISE ORDINANCE CHAPTER 155, ZONING - MINOR ZONING EDITS ROUND 7 - Z-24-005

THIS ITEM IS ON THE AGENDA TO PROVIDE AN ADVANCE RELEASE FOR INFORMATION ONLY. NO PRESENTATION OR DISCUSSION WILL OCCUR AT THIS MEETING.

ATTACHMENTS:

| Description | Type |
|--|----------------|
| <input type="checkbox"/> Issues Briefing | Issue Briefing |
| <input type="checkbox"/> Ordinance | Ordinance |

TOWNSHIP OF LOWER MERION

Building and Planning Committee

Issue Briefing

Topic: Zoning Code Amendment – Minor Zoning Code Edits

Prepared By: Christopher Leswing, Director, Department of Building & Planning
Colleen Hall, Senior Planner

Date: June 4, 2025

I. Action To Be Considered By The Board:

Authorize the Township Secretary to advertise a public hearing and notice of intent to adopt an Ordinance, to amend the Code of the Township of Lower Merion, Chapter 155, entitled Zoning for the following:

- Article II, Definitions, § 155-2.1, Definitions of Terms, to add the definitions for Food Hall, Hookah, Hookah Bar, Neighborhood Fulfillment and Distribution Center, Outdoor Temporary Sales Event, and Smoke Shop;
- Article III, General To Districts, § 155-3.5, Frontages, Subsection (D) and (F), to make edits to the frontage yards;
- Article V, Uses, Tables 5.1, Uses, and 5.3, Use Regulations, to permit Outdoor Temporary Sales Event as a regulated use in the VC, TC, NC, LI, RHR, BMV, and CAD Districts subject to certain standards to be provided for therein; and
- Article V, Uses, Tables 5.1, Uses, and 5.3, Use Regulations, to permit Neighborhood Fulfillment and Distribution Center and Food Hall as a regulated use in the VC, TC, LI, RHR, BMV, and CAD Districts subject to certain standards to be provided for therein; and
- Article V, Uses, Tables 5.1, Uses, and 5.3, Use Regulations, to permit Smoke Shop and Hookah Bars as a specialized retail use in the VC, TC, NC, LI, RHR, BMV, and CAD Districts subject to certain standards to be provided for therein; and
- Article VIII, Parking Standards, Table 8.1, Minimum Parking Requirements, to change the building area to floor area for the parking calculation.

II. Why This Issue Requires Board Consideration:

The Board of Commissioners approve all amendments to Township codes.

III. Current Policy Or Practice (If Applicable):

N/A

IV. Other Relevant Background Information:

It was anticipated that minor amendments would be required after the adoption of the new Zoning Code in 2020. Staff meets regularly with the Zoning Officer to review implementation of the Zoning Code and to address issues which require repeated variances or interpretations. The following group of Zoning Code edits are the seventh proposed set of edits since the February 26, 2020, adoption of the Zoning Code. The fifth round of edits was adopted in July of 2023 and the sixth round of edits was adopted in April of 2024.

There are several minor amendments suggested in this ordinance. Each proposed edit is summarized below:

1. **Article II: Amend the Definitions section** to add the definition for the following:

FOOD HALL

An indoor communal eating space in which curated, artisanal cuisines and dining experiences, prepared fresh to order by multiple vendors, are provided; distinct from food courts, which are typically found in shopping malls and feature fast-food chains offering quick, standardized meals.

HOOKAH

A substance typically smoked through a water pipe with a smoke chamber, a bowl, a pipe, and a hose, and also known as “narghile,” “argileh,” “shisha,” “hubble-bubble,” and “goza,” or any similar substance.

HOOKAH BAR

An establishment which is, whether as its primary use or as an accessory use, devoted to, marketed as, or designed for the on-premises use of hookah. The term “hookah bar” includes, but is not limited to, establishments variously known as “hookah parlors,” “hookah cafes,” and “hookah lounges.”

NEIGHBORHOOD FULFILLMENT AND DISTRIBUTION CENTER

A commercial use where prepared food, beverages, and convenience products are both sold at retail and also temporarily stored onsite until they are sorted, packaged, and delivered directly to surrounding neighborhood residential properties in response to orders placed in store or via an automated system which limits sales to available, on-site inventory.

OUTDOOR TEMPORARY SALES EVENT

The outdoor sale of temporary or seasonal merchandise for a limited period of time and which not require the construction or alteration of any permanent

structure and is also subordinate to the principal use of land or of a building on a lot customarily incidental thereto.

SMOKE SHOP

An establishment primarily engaged in or marketed as selling tobacco, tobacco products/accessories, and/or vaping products and accessories, including but not limited to a (1) retail sales or wholesale establishment which maintains 20% or more of its total merchandise as tobacco, tobacco products/accessories, and/or vaping products or accessories or (2) a retail or wholesale establishment which holds itself out as, or otherwise promotes or markets itself as, a "tobacco store," "smoke shop," "vape shop," "cigar shop," or other similar establishment.

- A. Examples of vaping products and accessories referred to herein shall include but not be limited to e-cigarette or vape cartridges or refills, vaporizers, vape pens, vapor products, hookah pens, electronic cigarettes, e-cigarettes, e-cigs, e-pipes, and any other electronic nicotine delivery system ("ENDS").
- B. Tobacco products and accessories as referred herein shall include but not limited to any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, matches, lighters, grinders, hookahs, pipes, chewing tobacco, cigarette rolling machines or papers, ashtrays, pipe tools, pipe supplies and pipe accessories.

2. Specific Regulations for Added Definitions:

Defining and better regulating Fulfillment/Distribution/Delivery uses

Issue:

Home delivery of prepared food, groceries and personal items has been increasing over the past few years and has significantly increased since the Pandemic. Some of the increases in home delivery are from traditional take-out food locations or from brick-and-mortar restaurants. Many restaurants have been partnering with third party vendors, such as Uber Eats or Doordash to provide home delivery. Issues associated with increased restaurant take-out and home delivery activity generally revolve around short-term, on-street parking. Parking issues can be addressed via parking restrictions, parking enforcement or through the creation of short-term drop-off/pick-up parking zones.

Of greater concern is the trend of larger-scale neighborhood Fulfillment/Distribution Centers such as Go Puff or Wonder which deliver a variety of take out and packaged food. Neighborhood Fulfillment and Distribution Center typically locate in neighborhood retail districts close to their customer base. Neighborhood Fulfillment and Distribution Center's combine the business's retail functions and activities and its warehouse or distribution activities into one building. These new, smaller facilities provide customers with options

for viewing goods and placing orders online or onsite. Goods are stored and orders are processed onsite. Customers can have their orders delivered to them or to another facility or location, or they can pick up their orders onsite. Neighborhood Fulfillment and Distribution Center's differ from traditional take out uses in their scale and differ from traditional warehouses in that a warehouse stores inventory while Neighborhood Fulfillment and Distribution Centers are designed to enhance the customer experience around the process of ordering and having products delivered on time.

Neighborhood Fulfillment and Distribution Centers are an emerging type of retail/distribution use that are not well regulated by local Zoning Codes. Issues with these types of uses include:

- Replacement of commercial space intended to be used for active commercial with uses that do not contribute to commercial area vibrancy or overwhelm neighboring businesses. Neighborhood Fulfillment and Distribution Centers can present food and beverage or convenience store front where people off the street can access goods which are primarily intended for distribution by hired drivers for delivery. Distinguishing retail/convenience appearing uses from actual active uses is a challenge. Requiring that street level retail be provided to a certain depth and including design standards helps. Adding requirements increasing the number of on-site table and chairs is another potential solution.
- Parking/loading and queuing is another concern of these types of uses. These types of uses typically employ a fleet of independent delivery agents who drive in/fill up and drive off to deliver their goods. Ensuring that on the street or public parking is not compromised by delivery fleets needs to be addressed. Higher off-street parking requirements can address these concerns.

Proposed Amendments

- Define Neighborhood Fulfillment and Distribution Center and Food Halls to differentiate the uses from traditional restaurants, retail or warehousing and storage.
- Designating Neighborhood Fulfillment and Distribution Center and Food Halls as regulated uses (specialized retail) in the VC, TC, LI, RHR, BMV, CAD districts.
- Adding the following specific regulations for Neighborhood Fulfillment and Distribution Center:
 - Frontage on a Primary or Secondary Roadway
 - Must provide off-street parking of 5 spaces per 1,000 square feet
 - Require retail use along 80% of the primary front façade for a depth of 40'.
 - The retail portion of the business must be open to the public whenever the Fulfillment Center is operating.
- Adding the following specific regulations for Food Halls:
 - Frontage on a Primary or Secondary Roadway
 - Must provide off-street parking of 5 spaces per 1,000 square feet

Outdoor Temporary Sales Events- Better Regulate Location & Duration of Outdoor Temporary Sales

Issue

Outdoor Temporary Sales Event (OTS), such as Christmas Tree Sales, pop up sports merchandise sales and seasonal garden centers are becoming more frequent fixtures in shopping center parking lots. OTS are separate and distinct from outdoor accessory sales currently permitted with brick and motor stores that lease spaces at shopping centers. Brick and mortar stores are permitted to have outdoor dining and sidewalk displays as accessory uses. Traditionally OTS have only lasted for a few weeks, but in recent years they have become longer in duration and as a result have a greater visual and operational impact upon the shopping center.

Proposed Amendments

- Designating outdoor temporary sales as a regulated use in the NC,VC, TC, LI, RHR, BMV and CAD Districts; and
- Establishing specific parameters by which OTS may operate, including:
 - Limiting any OTS to a period of no more than 4 consecutive weeks.
 - Prohibiting more than 1 OTS from operating at the same time.
 - Limiting the number of OTS in a calendar year to 3.
 - Limiting the footprint of an OTS to 3,000 square feet.
 - Requiring that the applicant apply for a zoning permit to operate an OTS and shall prove to the Zoning Officer that adequate parking and traffic control will be available for both the OTS and any other use of the property. The Zoning Officer may place conditions upon the permit to address parking and traffic control
 - Requiring that an OTS be set back a minimum of 20' from a residential property and that operations be screened to the satisfaction of the Zoning Officer.
 - Requiring that trash and loading associated with the use be properly screened from a public view.
 - Limiting the hours of operation to no later than 10pm; and
 - Limiting signage to a single non illuminated sign no greater than 25 square feet.

Smoke Shops and Hookah Bar: Add Separation Requirements

Issue

The Township is experiencing an increasing number of smoke shops and hookah bars (smoke shops) operating in commercial districts. Smoke shops primarily sell tobacco and drug paraphernalia but may also sell snacks and soft drinks. To purchase tobacco, customers must be over 21 years of age. Because they sell tobacco Smoke Shops must be licensed by the State. Smoke Shops are currently regulated as a retail use under the Township's Zoning Code, like a newsstand, pharmacy or liquor store.

Because of their association with regulated substances, Smoke Shops are often perceived as having a negative impact on commercial districts. The negative perception associated with

Smoke Shops may discourage investment in commercial districts and is contrary to the Township's economic development goals of creating vibrant, diverse commercial areas.

Smoke Shops are notorious for garish signage and lighting, which are often in conflict with Township codes. Enforcement of Smoke Shop code compliance is an ongoing challenge for staff. With that said, it is important to realize that existing uses would be grandfathered in and these separation requirements would not apply to existing smoke shops and hookah bars, only new uses with the separation requirements.

Proposed Amendments

- Defining Smoke Shops and Hookah Bars to differentiate them from other retail uses.
- Designating Smoke Shops as a regulated use (specialized retail) in the NC, VC, TC, LI, RHR, BMV, CAD districts.
- Adding separation requirements of 1 minimum distance of 1000' between establishments.
- Adding that alcoholic beverages may not be brought onto the premises for on-premises consumption and the sale and service of alcohol shall comply with all federal, commonwealth, and local laws.
- The use shall provide adequate ventilation such that the ventilation, at a minimum, must prevent smoke and vapors from migrating into adjacent buildings and/or suites and to outdoor public areas. A mechanical exhaust hood system shall be required if an establishment heats coals indoors.
- The uses shall comply with current Federal, Commonwealth, and local laws including, but not limited to the Clean Indoor Air Act.

3. Frontage Yards: Permitting Accessory Structures in Secondary Frontage Yards

Issue:

Most single-family homes in the Township front onto a public street and back up onto another residential property. These properties customarily have front, rear and side yard setback zoning provisions regulating what structures and improvements can occupy which setback. The Township's zoning includes specific frontage provisions prohibiting structures in the front yard setback between the house and the street. The zoning code also regulates materials and heights of fencing in the front yard setback, with the intent of creating open views between the streetscape and the front of residences.

The Township has a number of properties that front on two streets. Some of these properties are corner properties and the zoning code includes specific regulations to address these instances. However, not all properties with two street frontages are corner properties. The zoning code distinguishes between corner properties and Secondary Frontage lots (SF lots) in which the rear of the lot backs up to (or fronts) a street.

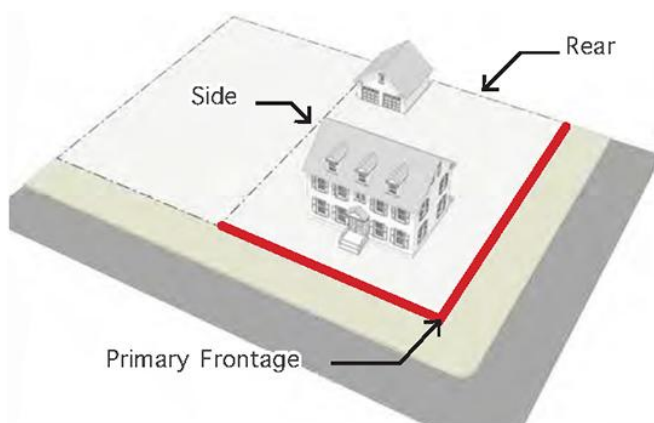
Secondary Frontage lots (SF lots) back up to a public street and not another property. In some instances, SF lots have turned their back on the 2nd street with landscaping and fencing (an example of this is along the east side Lancaster Avenue between St. Charles and the shopping Wynnewood Center). In many instances, SF lots are open on both streets that they front.

SF lots have two front yards instead of a front yard and a rear yard. Because SF lots don't have rear yards, they are extremely limited in where they can place accessory structures, like pools and sheds, which would customarily be located in the rear yard. Pools and sheds are not normally located in front yards. We have seen several appeals to the ZHB from homeowners looking to install pools and sheds on SF Lots. This proposed amendment addresses this issue.

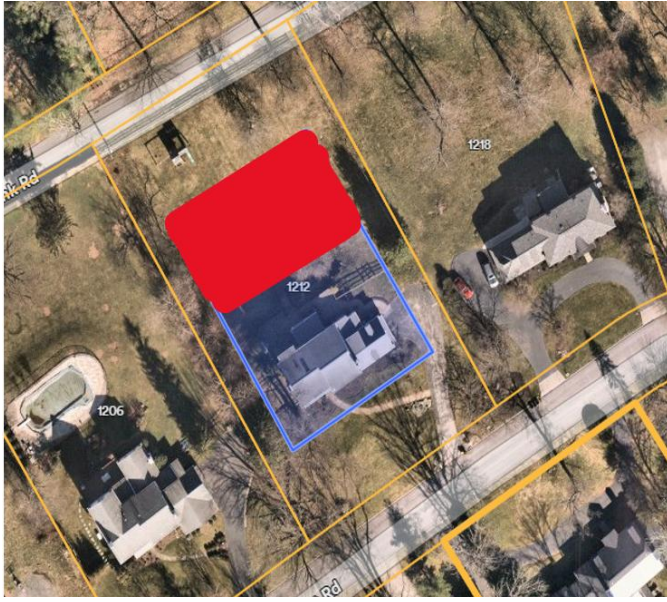
The current Zoning Code requires accessory structures to be placed behind the principal dwelling. A secondary frontage lot has two frontages and no rear setback; therefore, an accessory structure is not permitted.

Proposed Amendment

Permit secondary frontage lots to install an accessory structure within the building envelope of the secondary frontage, which is the area that does not have the vehicular access, typically the area that is used as a back yard for the dwelling. The structure would be required to meet the underlying front and side setbacks and not permitted to utilize the accessory structure setbacks, since there is street frontage in this area.



The current code allows for an accessory structure on corner lots.



The proposed amendment would allow for an accessory structure within the red area of the secondary frontage.

The Zoning Officer has seen several Zoning Hearing Board requests for relief from the primary frontage requirements, when it is a secondary frontage. The Board has not approved any exceptions to date. Staff would like to allow for the proposed flexibility for this code section to give homeowners additional options with their properties.

4. Clarifying how required off street parking is calculated in non-residential districts

Issue:

The Zoning officer has recently been challenged regarding how the Zoning Code determines the number of off-street parking spaces for non-residential uses. The code currently requires a certain number of parking spaces per 1,000 square feet for non-residential uses. The code notes that “square feet” refers to building area devoted to a particular use. The definition ‘building area’ essentially defines building area as the building footprint, which is fine for one story buildings, but fails to require off-street parking for multi-story buildings.

Proposed Amendment:

Revise the Minimum Parking Requirement note in the Zoning Code to state that square feet refer to the Floor Area devoted to the use, rather than Building Area devoted to the use.

Standards for Text or Rezoning Amendments

Staff believes the proposed amendments satisfy the standards for a zoning code amendment and recommend the adoption of the proposed ordinance. In anticipation of consideration for the proposed amendments, staff would like to draw attention to the standards for text or rezoning amendments, which are included in the Zoning Code:

§ 155-11.3.E.(2) Standards for text or rezoning amendments. In deciding whether to adopt or deny any proposed amendment, or to adopt some modification of the Planning Commission's recommendation, the Board of Commissioners shall consider, among other factors, the following:

- (a) Whether the proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive Plan, as adopted and amended from time to time;
- (b) Whether the proposed amendment is compatible with current and projected conditions and the overall character of development in the immediate vicinity of the subject property;
- (c) Whether the proposed amendment is the most desirable use for which the land in the subject property is adapted; and
- (d) Whether the proposed amendment will have an adverse effect on the value of properties throughout the jurisdiction.

V. Impact On Township Finances:

There is no impact on Township Finances

VI. Staff Recommendation:

Staff recommends advertisement of the code amendments.

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, Definitions Of Terms, To Create New Definitions For Food Hall, Hookah, Hookah Bar, Neighborhood Fulfillment And Distribution Center, Outdoor Temporary Sales Event, And Smoke Shop; Article III, General To Districts, § 155-3.5.D(1), Frontages, To Prohibit Structures In Primary Frontage Yards But Permit Structures In Secondary Frontage Yards If The Structures Meet Principle Building Setbacks; Article III, General To Districts, § 155-3.5.F(1), Frontages, To Limit The Prohibitions On Certain Structures And Equipment Contained Therein To Primary Frontage Yards; Table 5.1, Uses, And Table 5.3, Use Regulations, To Permit Outdoor Temporary Sales Events As A Regulated Commercial Use In The NC, VC, TC, LI, RHR, BMV, And CAD Districts And Establish Regulations For The Use; 5.1, Uses, And Table 5.3, Use Regulations, To Permit Neighborhood Fulfillment And Distribution Center As A Regulated Commercial Use In The VC, TC, LI, RHR, BMV, And CAD Districts And Establish Regulations For The Use; 5.1, Uses, And Table 5.3, Use Regulations, To Permit Food Hall As A Regulated Commercial Use In The VC, TC, LI, RHR, BMV, And CAD Districts And Establish Regulations For The Use; Table 5.3, Use Regulations, To Permit Smoke Shop And/Or Hookah Bar As A Specialty Retail In The NC, VC, TC, LI, RHR, BMV, And CAD Districts And Establish Regulations For The Use; And Table 8.1, Minimum Parking Requirements, and Table 8.1.1, Minimum Parking Requirements: Special District, To Base The Relevant Square Footage Calculation On Floor Area Rather Than Building Area.

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, Definition, § 155-2.1, Definitions, is hereby amended to create new definitions for Food Hall, Hookah, Hookah Bar, Neighborhood Fulfillment Center, Outdoor Temporary Sales Event, and Smoke Shop, as follows:

FOOD HALL

An indoor communal eating space in which curated, artisanal cuisines and dining experiences, prepared fresh to order by multiple vendors, are provided; distinct from food courts, which are typically found in shopping malls and feature fast-food chains offering quick, standardized meals.

HOOKAH

A substance typically smoked through a water pipe with a smoke chamber, a bowl, a pipe, and a hose, and also known as “narghile,” “argileh,” “shisha,” “hubble-bubble,” and “goza,” or any similar substance.

HOOKAH BAR

An establishment which is, whether as its primary use or as an accessory use, devoted to, marketed as, or designed for the on-premises use of hookah. The term “hookah bar” includes, but is not limited to, establishments variously known as “hookah parlors,” “hookah cafes,” and “hookah lounges.”

NEIGHBORHOOD FULFILLMENT AND DISTRIBUTION CENTER

A commercial use where prepared food, beverages, and convenience products are both sold at retail and also temporarily stored onsite until they are sorted, packaged, and delivered directly to surrounding neighborhood residential properties in response to orders placed in store or via an automated system which limits sales to available, on-site inventory.

OUTDOOR TEMPORARY SALES EVENT

The outdoor sale of temporary or seasonal merchandise for a limited period of time and which not require the construction or alteration of any permanent structure and is also subordinate to the principal use of land or of a building on a lot customarily incidental thereto.

SMOKE SHOP

An establishment primarily engaged in or marketed as selling tobacco, tobacco products/accessories, and/or vaping products and accessories, including but not limited to a (1) retail sales or wholesale establishment which maintains 20% or more of its total merchandise as tobacco, tobacco products/accessories, and/or vaping products or accessories or (2) a retail or wholesale establishment which holds itself out as, or otherwise promotes or markets itself as, a “tobacco store,” “smoke shop,” “vape shop,” “cigar shop,” or other similar establishment.

- A. Examples of vaping products and accessories referred to herein shall include but not be limited to e-cigarette or vape cartridges or refills, vaporizers, vape pens, vapor products, hookah pens, electronic cigarettes, e-cigarettes, e-cigs, e-pipes, and any other electronic nicotine delivery system (“ENDS”).
- B. Tobacco products and accessories as referred herein shall include but not be limited to any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, matches, lighters, grinders, hookahs, pipes, chewing tobacco, cigarette rolling machines or papers, ashtrays, pipe tools, pipe supplies and pipe accessories.

Section 2. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article III, General to Districts, § 155-3.5, Frontages, subsection (D), subsubsection (1) is hereby amended as follows:

§ 155-3.5. Frontages.

D. Frontage yards.

- (2) ~~(1)~~—Frontage yards shall be wholly open to the sky and unobstructed, except for permitted projections as specified in § 155-3.6, Projections. Structures are prohibited in the primary frontage yards.

- ~~(a)~~ Structures are permitted in a secondary frontage but must meet the principle building setbacks.

Section 3. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article III, General to Districts, § 155-3.5, Frontages, subsection (F), subsubsection (1) is hereby amended as follows:

§ 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 primary frontage yards:

Section 4. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article V, Uses, is hereby amended, in relevant part, as follows:

1. Table 5.1, Uses, is hereby amended to add Outdoor Temporary Sales Event as a regulated commercial use in the NC, VC, TC, LI, RHR, BMV, and CAD Districts. The relevant portion of Table 5.1 shall hereafter read consistent with the following:

| Table 5.1. Uses | | | | | | | | | | | | |
|--|-----|-----|----------|----------|----------|---|----------|----|------|----------|----------|----------|
| Uses | LDR | MDR | NC | VC | TC | I | LI | MC | BMMD | RHR | BMV | CAD |
| Mixed Use | | | R | R | R | | R | | | R | R | R |
| <u>Outdoor Temporary Sales Event</u> | | | <u>R</u> | <u>R</u> | <u>R</u> | | <u>R</u> | | | <u>R</u> | <u>R</u> | <u>R</u> |

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2. Table 5.3, Use Regulations, is hereby amended to add Outdoor Temporary Sales Event as a regulated commercial use in the NC, VC, TC, LI, RHR, BMV, and CAD Districts, subject to the following regulations. Where applicable, Table 5.3 shall hereafter include rows applicable to the aforementioned Districts which are consistent with the following:

| USES | USE PERMITTED | | | VC/ NC | TC1 | TC2 |
|--------------------------------------|---------------|----------|----------|---|-----|-----|
| | VC | NC | TC | | | |
| COMMERCIAL (CONT'D) | | | | | | |
| <u>Outdoor Temporary Sales Event</u> | <u>R</u> | <u>R</u> | <u>R</u> | <u>Outdoor temporary sales event (OTSE) shall be permitted subject to the following provisions:</u> <ul style="list-style-type: none"><u>The area utilized for the OTSE shall be limited to 3,000 square feet.</u><u>No more than one OTSE shall be permitted at any one time.</u><u>An OTSE shall be limited to four weeks or less.</u><u>A maximum of three OTSEs are permitted within any twelve (12) month period.</u><u>The applicant for a zoning permit seeking to operate an OTSE shall prove to the Zoning Officer that adequate parking and traffic control will be available for both the OTSE and any other use of the property. The Zoning Officer may place conditions upon the permit to address parking and traffic control.</u><u>The OTSE shall be setback at least twenty (20) feet from all surrounding residential uses.</u><u>Trash enclosures for the OTSE shall be provided and screened from view.</u><u>OTSEs shall cease daily operations prior to 10:00pm each day.</u><u>One sign with a maximum sign area of 25 square feet shall be permitted.</u> | | |

Section 5. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article V, Uses, is hereby amended, in relevant part, as follows:

1. Table 5.1, Uses, is hereby amended to add Neighborhood Fulfillment and Distribution Center as a regulated commercial use in the VC, TC, LI, RHR, BMV, and CAD Districts. The relevant portion of Table 5.1 shall hereafter read consistent with the follows:

| Table 5.1. Uses | | | | | | | | | | | | |
|---|-----|-----|----|----------|----------|---|----------|----|------|----------|----------|----------|
| Uses | LDR | MDR | NC | VC | TC | I | LI | MC | BMMD | RHR | BMV | CAD |
| Mixed Use | | | R | R | R | | R | | | R | R | R |
| <u>Neighborhood Fulfillment and Distribution Center</u> | | | | <u>R</u> | <u>R</u> | | <u>R</u> | | | <u>R</u> | <u>R</u> | <u>R</u> |

[this space is intentionally left blank]

2. Table 5.3, Use Regulations, is hereby amended to add Neighborhood Fulfillment and Distribution Center as a regulated commercial use in the VC, TC, LI, RHR, BMV, and CAD Districts, subject to the following regulations. Where applicable, Table 5.3 shall hereafter include rows applicable to the aforementioned Districts which are consistent with the following:

| USES | USE PERMITTED | | | VC/ NC | TC1 | TC2 |
|---|---------------|----|----------|---|-----|-----|
| | VC | NC | TC | | | |
| COMMERCIAL (CONT'D) | | | | | | |
| <u>Neighborhood Fulfillment and Distribution Center</u> | <u>R</u> | | <u>R</u> | <u>Neighborhood Fulfillment and Distribution Center (NFDC) shall be permitted subject to the following provisions:</u> <ul style="list-style-type: none"><u>The NFDC shall front on a Primary or Secondary street.</u><u>Off-street parking shall be provided at a rate of 5 spaces per 1,000 square feet of floor area devoted to retail, storage, and distribution.</u><u>The retail portion of the business shall be open to the public whenever the fulfillment and distribution portion is operating.</u><u>The retail portion of the business shall occupy at least 80% of the front façade and operate to a depth of forty (40) feet.</u> | | |

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Section 6. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article V, Uses, is hereby amended, in relevant part, as follows:

1. Table 5.1, Uses, is hereby amended to add Food Hall as a regulated commercial use in the VC, TC, LI, RHR, BMV, and CAD Districts. The relevant portion of Table 5.1 shall hereafter read consistent with the follows:

| Table 5.1. Uses | | | | | | | | | | | | |
|------------------|-----|-----|----|----------|----------|---|----------|----|------|----------|----------|----------|
| Uses | LDR | MDR | NC | VC | TC | I | LI | MC | BMMD | RHR | BMV | CAD |
| Mixed Use | | | R | R | R | | R | | | R | R | R |
| <u>Food Hall</u> | | | | <u>R</u> | <u>R</u> | | <u>R</u> | | | <u>R</u> | <u>R</u> | <u>R</u> |

2. Table 5.3, Use Regulations, is hereby amended to add Food Hall as a regulated commercial use in the VC, TC, LI, RHR, BMV, and CAD Districts, subject to the following regulations. Where applicable, Table 5.3 shall hereafter include rows applicable to the aforementioned Districts which are consistent with the following:

| USES | USE PERMITTED | | | VC/ NC | TC1 | TC2 |
|---------------------|---------------|----|----------|--|-----|-----|
| | VC | NC | TC | | | |
| COMMERCIAL (CONT'D) | | | | | | |
| <u>Food Hall</u> | <u>R</u> | | <u>R</u> | <u>Food hall shall be permitted subject to the following provisions:</u> <ul style="list-style-type: none"><u>The food hall shall front on a Primary or Secondary street.</u><u>Off-street parking shall be provided at a rate of 5 spaces per 1,000 square feet of floor area.</u> | | |

SECTION 7. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article V, Uses, is hereby amended, in relevant part, as follows:

1. Table 5.3, Use Regulations, is hereby amended to add Smoke Shop and/or Hookah Bar as a Specialized Retail which is or is to be a regulated commercial use, in the NC, VC, TC, LI, RHR, BMV, and CAD Districts, subject to the following regulations. Where applicable, Table 5.3 shall hereafter include rows applicable to the aforementioned Districts which are consistent with the following:

| USES | USE PERMITTED | LI |
|---------------------------|----------------------|--|
| COMMERCIAL | | |
| <u>Specialized Retail</u> | <u> R </u> | <p><u>Smoke Shop and/or Hookah Bar is subject to the following regulations:</u></p> <ul style="list-style-type: none"> · <u>A Smoke Shop and/or Hookah Bar shall be a minimum distance of 1,000 feet from any other Smoke Shop and/or Hookah Bar, measured along a straight line between the closest walls of each establishment.</u> · <u>Alcoholic beverages may not be brought onto the premises for on-premises consumption and the sale and service of alcohol shall comply with all federal, commonwealth, and local laws.</u> · <u>A Smoke Shop and/or Hookah Bar shall provide adequate ventilation such that the ventilation, at a minimum, must prevent smoke and vapors from migrating into adjacent buildings and/or suites and to outdoor public areas. A mechanical exhaust hood system shall be required if an establishment heats coals indoors.</u> · <u>A Smoke Shops and/or Hookah Bars shall comply with current Federal, Commonwealth, and local laws including, but not limited to the Clean Indoor Air Act.</u> |

Section 8. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article VIII, Parking Standards, is hereby amended, in relevant part, as follows:

1. The notes for Table 8.1, Minimum Parking Requirements, are hereby amended to read as follows:

NOTES:

ADU = Accessory dwelling unit

Square feet refers to ~~building~~ the floor area devoted to the use.

If a use is a regulated use according to Table 5.1, Uses, and Table 5.2, Uses for Institution, and the use regulations in Table 5.3, Use Regulations, includes parking requirements which differ from Table 8.1, Minimum Parking Requirements, the use regulations shall prevail.

1. 1/5 fixed seats or 5/1,000 square feet, whichever is greater.
 2. 1/5 seats, or 50 square feet of floor area where seating is not installed, for the largest place of public assembly on the site, (except that parking for assembly places to be used no more than six times a year may be accommodated on unpaved areas, if their availability can be demonstrated.) + 1/staff or volunteer + 1.5/2 driving age students/participants + 1 visitor space/25 students/participants.
 3. 1/staff + 0.5/assisted living unit + 1.0/independent living unit.
2. The notes for Table 8.1.1, Minimum Parking Requirements: Special Districts, are hereby amended to read as follows:

NOTES:

1. For BMV parking requirements refer to § 155-6.4F.

Square feet refers to ~~building~~ the floor area devoted to the use.

If a use is a regulated use according to Table 5.1, Uses, and Table 5.2, Uses for Institution, and the regulations include parking requirements which differ from Table 8.1, Minimum Parking Requirements, the use regulations prevail.

Section 10. Nothing in this Ordinance or in Chapter 155 of 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 Chapter 155 prior to the adoption of this amendment.

Section 11. 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 12. 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 13. This Ordinance shall take affect and be in force from and after its approval as required by law.

Approved by the Board of Commissioners of the Township of Lower Merion this _____ day of _____, 20____.

BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF LOWER MERION

Todd M. Sinai, President

ATTEST:

Jody L. Kelley, Secretary