

AN ORDINANCE

NO. _____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 155, Entitled Zoning, Article II, Definitions To Add A Definition For Single-Use Buildings, And To Amend Article XXXV, City Avenue District, §155-216, Purpose To Clarify The Division Of The District Into Three Districts, And To Amend §155-217C(8)(d) Dimensional Standards To Modify The Height Requirement For Penthouses, And To Add a New Section §155-217C(12) To Allow Deviations From The Dimensional Standards By Conditional Use, And To Amend §155-217E To Prohibit Single-Use Residential Development From Using The Density Increases, To Modify The Incentive For Wrapped And Underground Parking, To Modify The Transit Facility Incentives, To Remove The Cumulative Off-Site Traffic Improvement Incentives, And To Increase The Fee-In-Lieu Of Providing Off-Site Traffic Improvements; And By Reference To Amend The Floor Area Ratio Density Increases In The Bala Cynwyd Retail District; And To Amend §155-217, City Avenue District: Regional Center Area (RCA), Attachment 3:6, Table 6, Required Parking To Remove Unannotated Notes.

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, § 155-4 Terms defined, Terms defined, subsection B, shall be amended by the addition in alphabetical order of the following words:

§ 155-4. Words and terms defined. Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meanings indicated in this article:

* * * * *

SINGLE-USE BUILDING – A single-use building is occupied predominantly by one use and may include other ground floor uses.

* * * * *

Section 2. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXXV, City Avenue District, § 155-216, Purpose; division into two districts, is hereby amended to provide as follows:

§ 155-216 Purpose; division into ~~two~~three districts.

* * * * *

Section 3. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXXV, City Avenue District, § 155-217, City Avenue District: Regional Center Area (RCA), subsection C(8)(d), is hereby amended to provide as follows:

§ 155-217. City Avenue District: Regional Center Area (RCA)

* * * * *

C. Dimensional standards.

* * * * *

(8) Building height.

* * * * *

(d) Penthouses.

[1] A penthouse designed for and occupied by a residential or nonresidential use or common space shall not be included in measuring the height of a building if it is set back a minimum of 20 feet from the exterior walls and occupies less than 50% of the floor area of the story immediately below. The maximum height of a penthouse shall not exceed 20 feet above the roofline.

[2] A penthouse designed for equipment housings, including elevator shafts, shall not be included in measuring the height of a building provided it does not exceed 12 feet in height above the roofline or exceed 10% of the roof area.

* * * * *

Section 4. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXXV, City Avenue District, § 155-217, City Avenue District: Regional Center Area (RCA), subsection C(12), is hereby added to provide as follows:

§ 155-217. City Avenue District: Regional Center Area (RCA)

* * * * *

C. Dimensional standards.

* * * * *

(12) The Board of Commissioners may, by conditional use, approve variations to the dimensional standards set forth above, if the applicant demonstrates to the satisfaction of the Board that such variations are in furtherance of the legislative intent and the goals and objectives of this article.

(a) When Conditional Use is sought from §155-217.C.(5) to not provide a minor street, a public, multipurpose path shall be provided at maximum intervals of 600 feet. The path shall comply with the following criteria:

[1] The path shall connect the pedestrianway along the street to existing or proposed building entrances or interior public gathering space(s).

[2] The path shall be designed to improve connectivity through the site and the overall City Avenue District. The public multipurpose path shall connect to existing sidewalks or paths on an adjoining property, if feasible.

[3] The path shall be at least eight feet wide. A hardscaped or landscaped verge measuring at least four feet in width shall be provided along one side of the path where it abuts a driveway or a roadway. Hardscaped surfaces shall be smooth and walkable.

* * * * *

Section 5. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXXV, City Avenue District, § 155-217, City Avenue District: Regional Center Area (RCA), subsection E, Density Increase, paragraph (3) thereof, is hereby amended and paragraph (4) thereof is hereby removed and reserved, and paragraph (10) thereof is hereby amended to provide as follows:

§ 155-217. City Avenue District: Regional Center Area (RCA)

* * * * *

E. Density increase. The purpose of this section is to encourage the provision of amenities to benefit the public health, safety and welfare, including: adequate open space and public gathering space; efficient roadways; safe bicycle and pedestrian connections and transit facilities; and the preservation of historic resources. The density authorized in this article may be increased as shown on Table 2 and as described in this section, subject to the provisions listed below. In order to qualify for the density increases listed in Subsection E(2) through (10) a public gathering space in accordance with Subsection E(1) below shall be provided. Any development that includes a single-use residential building shall not be eligible to receive any of the density increases in this section. The density increases listed below may be cumulative.

Table 2
Density Increase
Increase

Section	Amenity	Initial Increase	OSTI ¹	Total Increase
§ 155-217E(1)	Public gathering space (PGS) ²	0.15	0.05	0.2
§ 155-217E(2)	Aggregation of PGS	0.15	0.05	0.2
§ 155-217E(3)	(Reserved) Residential single use or mixed use where the primary use is residential	0.1	0.05	0.15
§ 155-217E(4)	(Reserved) Mixed-use building or development	NA	0.05	0.05
§ 155-217E(5)	Structured parking	0.18	0.07	0.25
§ 155-217E(6)(a)	Underground parking <u>or</u> wrapped parking	0.5	0.05	0.55
§ 155-217E(6)(b)	(Reserved) Wrapped parking	0.25	0.05	0.3
§ 155-217E(7)(a)	Transit facility improvements	0.05 0.15	0.05	0.1
§ 155-217E(7)(b)	Transit facility: on-site bus stop	0.15	0.05	0.2
§ 155-217E(8)	Historic preservation	0.1	0.05	0.15
§ 155-217E(9)	Public, multipurpose pathway	0.15	0.05	0.2
§ 155-217E(10)	OSTI ¹	0.2	0	0.2
§ 155-217E(11)	Sustainable design (Reserved)	(Reserved)	(Reserved)	(Reserved)

NOTES:

¹ OSTI is an off-site traffic improvement.

² In order to qualify for the density increases public gathering space shall be provided.

- (1) Density increase for public gathering space. If an application includes a public gathering space on the lot, the allowable density may be increased by an FAR of 0.15 subject to compliance with the requirements listed below. ~~The FAR of 0.15 may be increased by 0.05, to a maximum of 0.2, where the applicant installs off-site traffic improvements or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-217E(10)(a) through (e) below.~~ 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.

* * * * *

- (2) Aggregation of public gathering space.

~~(a)~~ If the public gathering space is aggregated into one large area and it equals a minimum of 10% of the total lot area of the development, ~~but in no case may the aggregated area be and no~~ less than 35,000 square feet, the FAR may be increased by up to an additional 0.15. The aggregated public gathering space shall connect to ~~the any~~ pedestrianway or any multipurpose trail on the lot(s). The public gathering space is encouraged to be located as shown on the City Avenue District Official Map or as otherwise approved by the Board of Commissioners during the land development review and approval process.

~~(b) The allowable density may be increased by an additional FAR of 0.05 to a total FAR of 0.2 where the applicant installs off site traffic improvements or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-217E(10)(a) through (c) below.~~

(3) Reserved. Density increase for single use residential buildings or mixed use buildings or multiple use developments where the primary use is residential.

~~(a) The allowable density may be increased by up to a FAR of 0.1.~~

~~(b) The allowable density may be increased by an additional FAR of 0.05 up to a total FAR of 0.15 where the applicant installs off site traffic improvements or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-217E(10)(a) through (c) below.~~

(4) Reserved. Density increase for mixed use buildings or multiple use developments. The allowable density may be increased by up to a FAR of 0.05 where the applicant installs off site traffic improvements or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-217E(10)(a) through (c) below.

* * * * *

(5) Density increase for structured parking. The allowable density may be increased by a FAR of 0.18 for a development where a parking structure is provided.

(a) Where a new building is proposed or an existing building is expanded, newly created surface parking may account for a maximum of 10% of the required parking spaces for the new building or addition in order for the density increase to apply.

~~(b) The allowable density may be increased by an additional FAR of 0.07 to a total FAR of 0.25 where the applicant installs off site traffic improvements or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-217E(10)(a) through (c) below.~~

(6) Density increase for underground and/or wrapped parking structures.

~~(a) Underground parking structure.~~

~~[1] (a) The allowable density may be increased by up to a FAR of 0.5 for a development where parking is underground and/or wrapped. The total allowable increase shall be prorated in accordance with § 155-217E(6)(c) below. (NOTE: Should a greater incentive be provided for underground parking?)~~

~~[2] 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 or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-217E(10)(a) through (c) below.~~

(b) Wrapped parking structure.

~~[1] The allowable density may be increased by up to a FAR of 0.25 for a development where a A minimum of 75% of the façade of the perimeter of the parking structure as seen from a public way is ~~shall be~~ surrounded by a building with an active use complying with the development design standards in § 155-217 F. Such active uses may be either directly attached to the parking structure or separated by an interior court or service lane.~~

~~[2] The allowable density may be increased by an additional FAR of 0.05 to a total FAR of 0.30 where the applicant installs off-site traffic improvements or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-217E(10) (a) through (c) below.~~

~~(c) Where the required parking is split between a wrapped parking structure, an underground parking structure, a parking structure and/or surface parking, ¶ This density increase shall be prorated based on the percentage of the parking spaces provided required parking in the underground and/or wrapped parking structure to the total required parking spaces. and the wrapped parking structure.~~

(7) Density increase for transit facility improvements. The applicant must submit documentation from the appropriate transit authority approving the design and location of the transit improvements to attain the increases listed below.

~~(a) (a) The allowable density may be increased by up to a FAR of 0.050.15 for a development where accommodations to encourage mass transit are provided. The FAR may be increased by 0.05 for providing an amenity from each of the following categories: Such accommodations include the~~
~~[1] eConstruction of new bus shelters along a public roadway;~~
~~[2] the iInstallation of bus pull-offs along bus routes; and electronic mass transit schedule boards and/or~~
~~[3] Cycle share.~~

~~(b) 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 or~~

~~contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-217E(10) (a) through (c) below.~~

- ~~(b)e) — The allowable density may be increased by up to a FAR of 0.15 for a development when an on-street bus stop is moved onto the property being developed. The allowable density may be increased by an additional FAR of 0.05 to a total FAR of 0.2 where the applicant installs off-site traffic improvements or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-217E(10) (a) through (c) below.~~ The following facilities shall be provided:

- [1] Benches;
- [2] Shelters; and
- [3] Mass transit schedule boards.

(8) Density increase for historic preservation.

- (a) The allowable density may be increased by up to a FAR of 0.1 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.

~~(b) 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 or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-217E(10)(a) through (c) below.~~

(9) Density increase for a public, multipurpose path as shown on the City Avenue District Official Map or as otherwise approved by the Board of Commissioners during the land development review and approval process. The allowable density may be increased by up to a FAR of 0.15 where a public, multipurpose path is provided, subject to the following requirements.

- (a) The path shall be provided in addition to the required pedestrianway, except along City Avenue and along portions of Belmont Avenue where it is included in the pedestrianway.
- (b) The path shall be at least eight feet wide with one hardscaped or landscaped verge measuring at least four feet in width.
- (c) The path shall be paved with asphalt a minimum of 2 1/2 inches thick with a minimum aggregate subbase of four inches. An alternative material that provides an adequate walking surface, such as concrete or other similar paver systems, may be approved by the Township Engineer.
- (d) The path shall connect with public gathering spaces and shall connect with existing or proposed trails on abutting properties, or a pedestrianway.

~~(e) The allowable density may be increased by an additional FAR of 0.05 to a total FAR of 0.2 where the applicant installs off-site traffic improvements or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-217E(10) (a) through (c) below.~~

(10) Density increase for off-site traffic improvements. The allowable density may be increased by a 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:

(a) 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.

[1] When the applicant is installing the roadway improvement, the Township Engineer shall determine the scope of the roadway improvements installed.

[2] Construction cost estimates demonstrating compliance with Subsection E(10)(c) below shall be provided by the applicant and approved by the Township Engineer.

(b) 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 Code.

(c) The cost of the improvements shall be calculated as noted below:

[1] The off-site traffic improvements or payment in-lieu shall equal ~~\$201.65~~ per square foot generated by the total additional floor area constructed under § 155-217E (1) through (10).

* * * * *

Section 6. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXXV, City Avenue District, § 155-217, City Avenue District: Regional Center Area (RCA), Attachment 3:6, Table 6, Required Parking is hereby amended to provide as follows:

Table 6
Required Parking
City Avenue District: Regional Center Area
[Added 12-14-2011 by Ord. No. 3961; amended 4-25-2012 by Ord. No. 3971]

Land Use	Single-Use Peak-Hour Demand (spaces)	Percentage of Peak Demand for Key Times									
		Weekdays					Saturday				
		10:00 a.m.	1:00 p.m.	5:00 p.m.	8:00 p.m.	10:00 p.m.	10:00 a.m.	1:00 p.m.	5:00 p.m.	8:00 p.m.	10:00 p.m.
Retail	3/1,000 square feet (maximum 4)	50	75	75	65	25	50	100	90	65	35
Office	3/1,000 square feet (maximum 5)	100	90	50	5	5	15	15	5	0	0
Restaurant	4/1,000 square feet (maximum 5)	20	70	70	100	95	5	45	60	100	95
Theater	1/5 seats	0	60	60	85	85	0	70	70	100	100
Fitness center	4/1,000 square feet (maximum 5)	10	80	100	30	10	60	80	60	30	10
Indoor recreational facility and other permitted uses	4/1,000 square feet (maximum 5)	70	75	100	100	40	100	100	100	100	90
Hotel	1/room (maximum 1.5)	45	30	60	90	100	40	30	60	90	100
Residential	1.5/units (maximum 2)	85	80	85	95	100	70	65	75	95	100
-Includes sales area only- -Does not include common areas or other non-rental space-											

Section 7. 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 8. 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 9. This Ordinance shall take affect and be in force from and after its approval as required by law.

Enacted by the Board of Commissioners of the Township of Lower Merion this _____ day of _____, 2018.

BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF LOWER MERION

Daniel S. Bernheim, President

ATTEST:

Jody L. Kelley, Secretary