

TOWNSHIP OF LOWER MERION

Building & Planning Department

Memorandum

Topic: Authorization of Public Hearing for the Consideration of Adoption of the Zoning Code and Zoning Map

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

Date: December 11, 2019

Action

The Board of Commissioners is being asked to authorize a public hearing to consider the adoption of the Zoning Code and Zoning Map.

Background

In January 2017 the Board of Commissioners' selected DPZ Partners, LLC to draft a new Zoning Code in line with the goals and objectives of the *2016 Comprehensive Plan*. The Zoning Code was prepared to achieve the three following major goals:

1. Achieve the desired density, and align the standards with Land Use and other relevant recommendations;
2. Promote the desired form and pattern of the built environment; and
3. Create a user friendly, publicly-accessible document.

The Zoning Code is designed to advance the vision of the Comprehensive Plan, which is to, *"Preserve Lower Merion's classic residential neighborhoods, township's village cores and commercial areas to improve walkability, expand transit use, and encourage design excellence."*

Following a thorough assessment and analysis of the existing Zoning Code, numerous stakeholder interviews and 11 public meetings, DPZ prepared a draft Zoning Code. The draft Zoning Code was publicly distributed on October 24, 2018. Between November 2018 and December 4, 2019, thirty-one (31) public meetings and five open houses have been held to review and vet the Zoning Code in an open and transparent process. Six revised drafts, each accompanied by a list summarizing the new edits have been distributed and posted to the Township's website at www.lowermerion.org/rezoning.

On September 18, 2019 the Board of Commissioners held a public hearing to consider the adoption of the Draft Zoning Code. At the public hearing it was determined there was the need for additional time to edit and test the Zoning Code. As a result, the adoption of the Zoning Code was postponed. The delay provided the following opportunities:

- The B&P held two additional public meetings to provide policy direction on various sections of the Code, including the widely discussed Institutional District;

- The Township Solicitor, Zoning Hearing Board Solicitor, and staff further reviewed and refined the Draft Zoning Code and Draft Zoning Map; and
- The Montgomery County Planning Commission (MCPC) with outside planning, design and engineering professionals conducted a test of the Draft Zoning Code.

On November 22, 2019 Zoning Code Draft 4.0, which shows all edits made since September 18th in tracked changes, was publicly distributed. This draft was presented to the Building & Planning Committee (B&P) on December 4th along with the MCPC testing results and suggested edits.

At the meeting on December 4, 2019 the B&P recommended the authorization of a public hearing on the draft Zoning Code and accompanying Zoning Map, subject to the inclusion of the suggested edits listed in the document “Edits to Zoning Code Draft 4.0”. A copy of the list of approved edits is attached. Since December 4th the edits have been incorporated into Draft Zoning Code 4.0. All edits made since the September 18th public hearing are now shown in tracked changes. An updated draft of the Zoning Code may be viewed on the Township’s website at www.lowermerion.org/rezoning.

At the December 4th B&P Meeting three issues were raised, which staff seeks to present to the Board to determine if the Board would like these amendments incorporated into the code.

1. Ambiguity in the Institutional District Form Tables in Article 4 relating to the required setback of four-story buildings in the IE and IH districts;
2. Concern about limiting municipal service uses in the Use Tables in Article 5; and
3. Impervious Surface standards for public schools.

A spreadsheet is attached which includes additional Zoning Code amendments to be considered resulting from the issues raised at that December 4th meeting. It should be noted that a couple of edits tied to the “mixed-use” edits presented to the B&P on December 4th were inadvertently omitted and they are also included on the attached spreadsheet.

1. Institutional District Form Tables: IE and IH (Article 4)

In the Institutional District, the required front yard setback increases by 50 feet for each story of a building or structure over three-stories in height. Building heights are limited to four-stories, up to 52 feet in four of the institutional sub-districts (IN, IC1, IC2, IC3).

A question was raised regarding the building height limit in the remaining six sub-districts where building height is limited to five-stories (IE1, IE2, IE3, IH1, IH2, and IH3). Two issues were identified:

- A. A maximum height in stories (five-stories) is provided, but a maximum height in feet is not provided.
- B. A maximum height for a four-story building is not provided, so a tall four-story building that is essentially just as tall as a squat five-story building would not be subject to the additional 50 feet front setback.

Staff believes that these issues may be addressed by editing the Form Table notes relating to principal building height for the IE and IH Districts as follows:

Maximum five stories, up to 65 ft. where setbacks are increased by an additional 50 ft. for each 10 ft. story above the three stories 45 ft. height limit. Buildings may be five stories or 65 ft. in height without an increased setback along the Primary Road.

2. Municipal Service Uses (Article 5)

A concern was raised that “Table 5.1 Uses” lists the permitted uses in all the zoning districts, but Municipal Service Uses are not listed as a permitted use in many districts.

Staff notes that land and buildings owned by Lower Merion Township and used for its governmental purposes are exempted from the provisions of the Zoning Code under Section 155-1.1.9, which largely addresses this concern.

The Municipal Service Uses listed in “Table 5.1 Uses” pertain to those civic uses that operate out of buildings or land not owned by Lower Merion Township. In Lower Merion Township the Gladwyne Library and the ambulance and fire stations fall into this category of uses.

Staff recommends amending “Table 5.1 Uses” to include Municipal Service Uses as Permitted/Conditional Use (P/C) in the LDR, MDR, VC, TC, and BMV Districts to make it clear that ambulance and fire service uses are permitted by conditional use and Township uses are permitted uses.

3. Impervious Surface Standards: Public Schools (Article 4)

A question was raised regarding the impervious surface cap limitations as they pertain to public schools. The Institutional district currently includes the three following exemptions from the impervious surface calculations:

- Porous paving (up to 5% of the lot area);
- Pathways under six feet in width if dedicated to use by the public; and
- Cemetery headstones and monuments.

This section was refined when a flat impervious surface cap of 47% applied to all Institutional districts. The porous paving and pathways were allowed to be exempted from the impervious surface calculations, except when determining compliance with the maximum cap. Cemetery headstones and monuments were exempted beyond the maximum cap limit.

With the creation of the institutional sub-districts, the flat 47% impervious surface cap was removed, and a specific impervious surface maximum was established for each sub-district. The IC3 and IE3 Districts are the only two sub-districts that allow 47% impervious surface. Now that a maximum impervious surface cap does not apply, this language may require refinement.

Staff notes that an impervious surface exemption is also listed in Section 155-3.13.2.g., which may also require refinement to address the impervious surface concerns.

Staff offers two options to address the impervious surface concerns:

OPTION 1: Delete all of Section 155-4.4.4.a.ii., amend Section 155-4.4.4.a.iii. and 155-3.13.2.g.

OPTION 2: Delete Section 155-4.4.4.a.ii., move the pedestrian path exemption to 155-4.4.4.a.iii., and amend Section 155-4.4.4.a.iii. and 155-3.13.2.g.

OPTION 1

~~4.4.4.a.ii.—The following shall be exempt from the Total Impervious Surface Calculations up to the maximum cap as listed in “Table 4.4 Institutional Form Standards”:~~

~~4.4.4.a.ii.(1). Hard surface areas not used for vehicular parking, driveways, or vehicular circulation, that employ a porous paving or are designed to be pervious with a runoff coefficient less than or equal to grass and maintained to continue this runoff coefficient as approved by the Township Engineer, provided these surfaces occupy no more than five percent (5%) of the lot area. Examples of surfaces that may be constructed to meet these criteria include, but are not limited to, walkways, building entrance areas, gathering areas, sports courts, and running tracks.~~

~~4.4.4.a.ii.(2). Sidewalks and pedestrian pathways under six feet in width, if available to and dedicated for use by the public and are reasonably accessible to the public.~~

4.4.4.a.iii. The following shall be exempt from the Total Impervious Surface Calculations ~~beyond the maximum cap~~ as listed in “Table 4.4 Institutional Form Standards”:

4.4.4.a.iii.(1). Cemetery headstones and monuments.

3.13.2.g. The following shall not be considered as impervious surface, except in the IC3 and IE3 Districts:

3.13.2.g.i. Wood decks less than 200 square feet if constructed with a space between each plank and if the deck is constructed over a pervious surface. Once the deck exceeds 200 square feet one half of the entire deck area shall be considered impervious surface.

3.13.2.g.ii. Pathways six feet or less in width that employ a porous paving system and which are not intended for automobile use.

OPTION 2

~~4.4.4.a.ii.—The following shall be exempt from the Total Impervious Surface Calculations up to the maximum cap as listed in “Table 4.4 Institutional Form Standards”:~~

~~4.4.4.a.ii.(1). Hard surface areas not used for vehicular parking, driveways, or vehicular circulation, that employ a porous paving or are designed to be pervious with a runoff coefficient less than or equal to grass and maintained to continue this runoff coefficient as approved by the Township Engineer, provided these surfaces occupy no more than five percent (5%) of the lot area. Examples of surfaces that may be constructed to meet these criteria include, but are not limited to, walkways, building entrance areas, gathering areas, sports courts, and running tracks.~~

~~4.4.4.a.ii.(2). Sidewalks and pedestrian pathways under six feet in width, if available to and dedicated for use by the public and are reasonably accessible to the public.~~

4.4.4.a.iii. The following shall be exempt from the Total Impervious Surface Calculations ~~beyond the maximum cap~~ as listed in “Table 4.4 Institutional Form Standards”:

4.4.4.a.iii.(1). Cemetery headstones and monuments.

4.4.4.a.iii.(2). Sidewalks and pedestrian pathways under six feet in width, if available to and dedicated for use by the public and are reasonably accessible to the public.

3.13.2.g. The following shall not be considered as impervious surface, except in the IC3 and IE3 Districts:

3.13.2.g.i. Wood decks less than 200 square feet if constructed with a space between each plank and if the deck is constructed over a pervious surface. Once the deck exceeds 200 square feet one half of the entire deck area shall be considered impervious surface.

3.13.2.g.ii. Pathways six feet or less in width that employ a porous paving system and which are not intended for automobile use.

Prior to the development of the sub-districts, staff believes the Board’s intention was to proceed with Option 1 because it includes no ability for the exemption for public pathways from the impervious surface calculations.

Staff recommends Option 2. Exempting sidewalks and pedestrian pathways, which are available to the public and under six feet in width from the impervious surface calculations helps to encourage pedestrian connectivity between the civic institutions and the neighborhoods surrounding them. It provides a public benefit. Without this exemption the Township could see the removal of sidewalks from large institutions constrained by the impervious surface requirements as a part of future additions/expansions.

4. Outstanding “Below the Line” Items

A supplemental memo will be provided to summarize the list of items that have not been resolved.