

**EAST GOSHEN TOWNSHIP
PLANNING COMMISSION
Meeting Agenda
Wednesday, July 6, 2011
7:30 PM**

- A. Call to Order / Pledge of Allegiance / Moment of Silence
- B. Chairman will ask if anyone is going to record the meeting
- C. Review of Tracking Log / Determine need for Workshop Meeting
- D. Public Comment on Non-Agenda Items
- E. Approval of Minutes
 - 1. **June 1, 2011**
- F. Acknowledge Receipt of New Applications
- G. Subdivision Plans
- H. Land Development Plans
- I. Conditional Uses, Variances & Special Exceptions
 - 1. **Tru-Team Inc., (Adaptive Reuse of Historic Resource), 1422 Paoli Pike (CU)**
- J. Ordinance Amendments
 - 1. **Tree Ordinance**
 - 2. **Wireless Communications Ord.**
 - 3. **Sign Ordinance Discussion**
- K. Old Business
- L. New Business
- M. Any Other Matter
 - 1. **YMCA Revised LS Plan**
- N. Meeting Dates of Importance

| | | |
|----------------|----------------------------------------------|---------|
| July 4, 2011 | Office Closed for Independence Day | |
| July 5, 2011 | Board of Supervisors Cancelled | 7:00 pm |
| July 6, 2011 | Pension Committee | 1:00 pm |
| July 7, 2011 | Farmer's Market | 3:00 pm |
| | Park & Rec. Board | 7:00 pm |
| July 11, 2011 | Municipal Authority | 7:00 pm |
| July 12, 2011 | Board of Supervisors | 7:00 pm |
| | (CU Hearing: Tru-Team Inc – 1422 Paoli Pike) | |
| July 13, 2011 | Conservancy Board | 7:00 pm |
| July 14, 2011 | Farmer's Market | 3:00 pm |
| | Historical Commission | 7:00 pm |
| July 19, 2011 | Board of Supervisors Cancelled | 7:00 pm |
| July 21, 2011 | Local Traffic Advisory Committee | 1:00 pm |
| | Farmer's Market | 3:00 pm |
| July 26, 2011 | Board of Supervisors | 7:00 pm |
| July 28, 2011 | Farmers Market | 3:00 pm |
| August 2, 2011 | Board of Supervisors | 7:00 pm |
| August 3, 2011 | Pension Committee | 1:00 pm |
| August 4, 2011 | Park & Recreation Board | 7:00 pm |
- O. Correspondence / Liaison Reports
- P. Goals
- Q. Adjournment

- **Bold Items indicate new information to review for that topic.**

REMINDER – Newsletter Article Submission Due Date:

Article Due Date

Delivery Date

August 3, 2011

October 1, 2011

Planning Commission Application Tracking Log

| Application Name | Application (CU, LD, O, SD, V, SE, CA) | Type (SK, P, F) | Date Filed | Start Date | Date to Verkes/Consultant | Date to CCPC | Date to Abutting Prop. / ABC's | Extension | PC NLT Action Date | BOS NLT Action Date | Hearing Date | Drop Dead date |
|--------------------------------|----------------------------------------|-----------------|------------|------------|---------------------------|--------------|--------------------------------|-----------|--------------------|---------------------|--------------|----------------|
| Tru-Team Inc., 1422 Paoli Pike | CU | SK | 3/29/2011 | 3/29/11 | 4/1/11 | na | 3/30/11 | 1 | 7/6/11 | 7/12/11 | 7/12/11 | 7/27/11 |

Bold = New Application or PC action required

draft
EAST GOSHEN TOWNSHIP
PLANNING COMMISSION MEETING
June 1, 2011

The East Goshen Township Planning Commission held their regularly scheduled meeting on June 1, 2011 at the East Goshen Township building. Members present were: Chairman George Martynick, Dan Daley, Megann Hedgecock, Jim McRee, Susan Carty, Al Zuccarello, and Peter Mylonas. Also present were Township Zoning Officer Mark Gordon, Don McConathy (Supervisor), Erich Meyer, resident, and Rick Horan, Boy Scout.

WORKSHOP SESSION – 7:00pm

- A. The minutes of April 6 and May 5 meetings were reviewed.
- B. The various agenda items were reviewed.
- C. George introduced Rick Horan who is attending the meeting as part of his Eagle Scout requirements.

FORMAL SESSION

A. Pledge of Allegiance & Announcements

George called the meeting to order at 7:30 pm and asked Rick to lead the Pledge of Allegiance. There was a moment of silence to remember our armed forces.

George asked if anyone would be recording the meeting. There was no response.

George asked those in attendance if there were any non-agenda items to be discussed. Al commented that there are so many cyclists on the roads and he was wondering if they could be prohibited from riding on some of the more narrow, curved roads. Dan explained that under the PA Vehicle Code, cyclists have the same rights to the roads as motor vehicles.

B. Approval of Minutes

Peter moved to approve the minutes of the April 6, 2011 meeting as amended. Jim seconded the motion. The motion passed. Sue abstained.

Megann moved to approve the minutes of the May 5, 2011 meeting as corrected. Sue seconded the motion. The motion passed unanimously.

C. Acknowledge Receipt of New Applications - None

D. Subdivision/Land Development Plans – None

E. Conditional Use and Variances

- 1. Tru-Team Inc. (Adaptive Reuse of Historic Resource) 1422 Paoli Pike (CU). There were no representatives for the applicant at the meeting.

F. Ordinance Amendments

- 1. Wireless Communications – Mark explained that the solicitor's comments are included and wording regarding use on Township owned property has been added where needed. George said that the Commission has reviewed the changes. Al made the following motion: Mr. Chairman, I move that we recommend that the Board of Supervisors review the proposed amendment to the Zoning Ordinance amending the Wireless Communications ordinance and forward it to the CCPC for review and comment. Sue seconded the motion. The motion passed unanimously.

- 2. Sign Ordinance – George feels the current ordinance has what is needed. The Chadds Ford ordinance has specific wording for electronic signs. Mark feels LED, LCD and plasma signs need to be addressed. He will look at the research regarding blinking and flashing to be sure everything is addressed.

1 Dan mentioned that if you go on Rt. 202 into Delaware, there are more and more electronic signs. He feels that if
2 we want to limit blinking, flashing and interchangeable electronic signs, we need to see how other ordinances
3 handle this.

4 Jim and Megann don't want to permit any electronic signs. Al pointed out that there are places where signs of
5 any kind are prohibited.

6 Sue wondered if, where there are residential among industrial in an area, we can protect the connecting areas
7 (residential); example: Paoli Pike switches between residential and industrial/commercial.

8 Dan noted that the Chadds Ford ordinance limits the display sign, display cycle to not change more than every 5
9 minutes. Also, it restricts brightness and day/night use. He feels we should limit/prohibit this type of sign in
10 certain areas, i.e. the historic district. Chadds Ford also covers community notices via electronic signs, i.e. if there
11 is an Amber Alert, the sign must be able to show those alerts.

12 Mark commented that there have been discussions to put an electronic sign in front of the Township building.

13 George mentioned that the argument from the lighting industry in favor of these new electronic signs is that there
14 is less waste of electric energy.

15 Peter asked for clarification of what will be defined for next month. He feels we aren't excluding signs, just
16 prohibiting certain types in certain areas. He would like it added that these signs would be prohibited in defined
17 areas. Jim and Megann agree.

18 Don suggested that someone check with the State to see if they have any prohibitions. He feels it is better to
19 control the signs than to prohibit them.

20 Sue wondered if the distance between signs could be controlled. Don said the current ordinance limits one sign
21 per property.

22 Mark reviewed the current ordinance prohibitions regarding blinking, flashing and twinkling, etc.

23 This topic will be discussed again next month.

24
25 **G. Old Business - None**

26
27 **H. New Business**

28 None

29
30 **I. Liaison Reports**

31 1. Willistown – Megann reported that the townhouse project is moving along. The developer is Toll
32 Brothers and the townhouses start in the high \$400,000s. The intersection at Paoli Pk. and Line Rd. must be
33 done before they can start construction.

34
35 **J. Any Other Matter –**

36 None

37
38 **H. Adjournment**

39 Motion to adjourn the meeting was made by Sue and seconded by Megann. The meeting adjourned at 8:20 p.m.

40
41
42 Respectfully submitted, _____
43 *Ruth Kiefer, Recording Secretary*

44
45 C:\Documents and Settings\Owner\My Documents\My Word\Planning Commission\PC 2011\PC 06012011 draft.doc

Memorandum

East Goshen Township
1580 Paoli Pike
West Chester, PA 19380

Voice: 610-692-7171
Fax: 610-692-8950
E-mail: mgordon@eastgoshen.org

Date: 6/28/2011
To: Planning Commission
From: Mark Gordon, Township Zoning Officer 
Re: 1422 Paoli Pike / Historic Resource Adaptive Reuse / Conditional Use / Draft Motion

Dear Commissioners:

As you know a conditional use application (the "Application") was submitted by Tru-Team, Inc. ("Applicant") requesting an adaptive reuse of the existing historic structure on the above-referenced property as a medical office building. Applicant proposes to build a 2,797 square foot addition to the existing dwelling, pave a new parking lot for 16 vehicles to be accessed from the western driveway entrance and to remove the eastern driveway access.

At the May 4, 2011 Planning Commission meeting, Applicant granted the Township an extension of 60 days to review and rule on the Application. On May 9, 2011, I wrote Applicant a letter outlining the items that it must submit in order for the Planning Commission to evaluate the Application and make an informed recommendation to the Board. To date, Applicant has not submitted any additional information or documents. The conditional use hearing is scheduled for July 12, 2011. At this time, absent Applicant granting another extension, the Planning Commission must make a recommendation to the Board of Supervisors for the Application. I have drafted the following motion for your consideration:

Draft Motion:

Mr. Chairman, I move that the Planning Commission recommend that the Board of Supervisors deny the Conditional Use Application of Tru Team, Inc. for the adaptive reuse of the historic resource located at 1422 Paoli Pike, West Chester, PA 19380 for the following reasons:

- 1) Applicant has not provided the Township with the required information supporting the Conditional Use Application to adaptively reuse the current residential use as an office use. Specifically, Applicant has not provided the information required by Section 240-38.8 of the Zoning Ordinance or the information requested in a letter dated May 9, 2011 from the Township's Zoning Officer, Mark A. Gordon to Applicant. A copy of said letter is attached hereto and incorporated herein by reference.
- 2) Applicant has not complied with the outstanding comments in the Township Engineer's review letter dated April 29, 2011, a copy of which is attached hereto and is incorporated herein by reference.

- 3) As referenced in the Township Engineer's review letter dated April 29, 2011, the plan submitted with the Application does not comply with the following sections of the East Goshen Township Zoning Ordinance:
- a. § 240-31.C(3)(qq)- the proposed parking area encroaches into the required front yard;
 - b. § 240-33.B(7)- the handicapped space is not 11 feet wide.
 - c. § 240-33.C(8)- which requires any parking or off-street loading area of five or more spaces which abuts a lot in a residential district to have an appropriate screen;
 - d. § 240-33.C(3)- which requires a minimum of 5% of a parking area to be landscaped;
 - e. § 240-33.C(7)- which requires all parking areas for uses other than single family dwellings to be physically separated from any public street by a concrete curb and planting strip of at least 10 feet;
 - f. § 240-33.C(9)-which requires parking areas to be illuminated after dusk;
 - g. § 240-33.D(1)- which requires an off-street loading space;
 - h. § 240-24.E- which requires a refuse storage area.
- 4) Applicant has not proven that its plan complies with the applicable area and bulk requirements for lots in the R-2 District. If Applicant seeks a modification of any of the area and bulk requirements pursuant to Section 240-38.6, it has not identified the modification that it seeks the Board to approve by conditional use.
- 5) Applicant has not proven the applicable criteria in Section 240-38.7. Namely, Applicant has not demonstrated that the granting of conditional use approval is necessary for the preservation of the historic resource, that the proposal will not be destructive to the integrity of the historic resource and that the proposed modifications will not be out of character with the existing uses in the immediate neighborhood.
- 6) Applicant has not proven compliance with the standards for conditional use in Section 240-31.C of the Zoning Ordinance. Specifically, it has not demonstrated that the proposed adaptive reuse shall not be detrimental to other property in the vicinity and that the use will not create significant traffic safety hazards or cause serious traffic congestion.

**EAST GOSHEN TOWNSHIP
PLANNING COMMISSION**
1580 PAOLI PIKE, WEST CHESTER, PA 19380-6199

May 9, 2011

Tru-Team, Inc.
63 Eastwood Rd.
Berwyn, PA 19312

Re: Conditional Use Application / Adaptive Reuse of an Historic Resource
Tru-Team, Inc. / 53-4-118 / 1422 Paoli Pike

Mr. Zelensky,

At their meeting on May 4, 2011 the Planning Commission requested a 60 Day Planning Review extension to review period for your Conditional Use application. Dr. Zelenska verbally granted the Planning Commission this extension on the record.

The reason the Planning Commission requested this extension is because they do not believe that sufficient information has been provided to show how the proposed office use and new, ~5,000 s.f building addition will impact the ~1,800 s.f. Historic Resource. There are also concerns that the proposed addition may not be feasible from a construction standpoint.

The Planning Commission requests that the following additional information be provided for their review and consideration:

1. Your application states: "Applicant seeks modifications to applicable area and bulk regulations with regard to the buffer yard and building setbacks for the parking and for the addition to the building." These modifications must be accurately presented to the Planning Commission for review. Specific information needs to be presented to support these modifications as per §240-38.6 and §240-38.7.
2. Due to the constraints of the property and the proposed 2 story addition to the existing historic resource; the Planning Commission requests that architectural renderings of the proposed addition be provided and a written description of how the historic resource will be physically incorporated into the proposed addition. In addition it would be useful if you could provide some information on the constructability of the proposed addition.
3. Although support for a waiver from the Historic Resource Impact study has been received from the Township Boards and Commissions, the Planning Commission still believes that some information needs to be submitted outlining the

potential impacts and proposed mitigation measures as described in §240-38.10.B(2) and §240-38.10.B(3).

4. Provide a written response and revised plans addressing the Township Engineers' review letter dated 4/29/2011.

As you know the Township has supported your proposed Adaptive Re-use of this property since you first approached us with a concept sketch in September of 2009. We look forward to working with you to overcome the planning and engineering challenges that this project presents. However, the Township has an obligation to ensure that proper planning is conducted and all Township regulations are followed.

At this time the Board of Supervisors will open and continue the Conditional Use Hearing on May 24, 2011 to a date certain, which will be determined on that evening.

I have enclosed our standard Planning Review extension form for your completion and authorization with a self addressed and stamped envelope. Please return this form to the Township. Please don't hesitate to contact me should you have any questions.

Sincerely,



Mark A. Gordon
Township Zoning Officer

Cc: Board of Supervisors
Historical Commission
John Smirga, P.E. (Via Email)
Michael Conrad, P.E. Township Engineer (Via Email)

BOARD OF SUPERVISORS

EAST GOSHEN TOWNSHIP

CHESTER COUNTY
1580 PAOLI PIKE, WEST CHESTER, PA 19380-6199

Date: 5/4/2011
Plan: 1422 PAOLI PIKE / COND. USE / ADAPTIVE REUSE

East Goshen Township Board of Supervisors
1580 Paoli Pike
West Chester PA 19380

Re: **Extension of Review Period**

Dear Board of Supervisors,

In regard to the above noted plan I authorize a 60 day extension to the review period. I understand that this extension doesn't mean that the application referenced will be approved within this period; it solely allows East Goshen Township additional time to review the application.

Applicant (Print): _____

Applicant (Sign): _____



Yerkes Associates, Inc.

Consulting Engineers / Site Planners / Land Surveyors

April 29, 2011

East Goshen Township Board of Supervisors
1580 Paoli Pike
West Chester, Pennsylvania 19380

Attn: Mark Gordon, Township Zoning Officer

Re: Tru-Team Inc. - 1422 Paoli Pike
UPI#: 53-04-118
Conditional Use Application Review

Dear Mark:

A Conditional Use Application, prepared by John Smirga, P.E. on behalf of Tru-Team, Inc., has been submitted to this office for review. The application includes the following drawings and documentation:

- Sketch Plat Development Plan for Zelensky (herein noted as Option 1), Sheet 1 of 2, dated 09-18-08, last revised 03-17-11
- Sketch Plat Development Plan for Zelensky - Option 2, Sheet 2 of 2, dated 09-18-08, last revised 03-31-11
- Conditional Use Application and Checklist, dated 03-28-11
- East Goshen Township, Board of Supervisors letter dated 03-30-11
- Various exterior and interior building and property photographs, 8 pages

Tru-Team, Inc. is the property owner and applicant and is applying for an adaptive reuse of an existing historic building as a medical business office. The property located at 1422 Paoli Pike contains an existing historic structure, a barn, two garages, and a shed. The property is accessible with two separate paved driveways to Paoli Pike. The driveway on the west side of the property provides access to a detached garage and the driveway on the east side property provides access to the barn. The proposed modifications shown on the Option 2 Sketch Plat include a 2,797 square foot addition to the existing dwelling, a paved parking lot for 16 vehicles that will be accessed from the western driveway entrance, and the removal of the eastern driveway access.

The site is situated within the R-2 Low Density Residential District. It is our understanding that the Board of Supervisors approved the Applicant's waiver request to not provide an Historic Resources Impact Study. The following comments are offered for consideration:

Zoning Ordinance

R-2 Low Residential Zoning District

1. Section 240-9.G – Within the R-2 zoning district, the maximum lot coverage by buildings is 25 percent and the maximum lot coverage by impervious surfaces is 35 percent. The plan should note the existing and proposed building coverage and impervious surface coverage.
2. Section 240-9.G – Within the R-2 zoning district, the maximum building height is three stories or 30 feet. The plan should note the height of the existing historic building and the height of the proposed addition. Architectural sketch drawings and sections that depict the height of the existing building and proposed addition should also be provided with the plan submission.

General performance Standards

3. Section 240-24.E – Refuse storage areas shall be adequate in size, screened from view from any public right-of-way, and be situated to prevent blockage or interference with accessways or parking spaces. The plan should indicate the location of a refuse storage area.
4. Section 240-24.F – The narrative notes and the plan indicates that the proposed office will be connected to public sewer. Public sanitary sewer service availability will need to be discussed with the Municipal Authority.

Conditional Use

5. Section 240-31.C (2) (d) – All conditional uses shall not be detrimental to other property in the vicinity and shall include proper use of adequate setbacks, buffering, berming, proper location of nuisance-causing facilities, screening, and proper control of operations to avoid conflicts. Where, in the opinion of the Board of Supervisors, the distance of setbacks and/or the methods of screening and buffering otherwise established by this chapter would be insufficient, additional screening, buffering and/or widths of setbacks shall be required as a condition of any approval. It is recommended that the proposed parking area and proposed building addition location be adjusted as necessary to provide sufficient separation from the southern property line for grading and landscape buffering and screening.
6. Section 240-31.C (2) (f) - All conditional uses shall not create significant traffic safety hazards or cause serious traffic congestion. A traffic study or assessment should be provided to address traffic ingress and egress from the proposed parking lot. Paoli Pike is classified as an Arterial Highway. Restrictions regarding left turns into and from the proposed parking lot may be necessary.

Off-Street Parking and Loading

7. Section 240-31.C.3.qq – The proposed parking area encroaches into the required front yard. Vehicle parking within the required front yard is permitted by conditional use if all the requirements of this section are met: justification of need; minimum setback of 20 feet from the street right-of-way line, except that additional parking shall not be located between the right-of-way line of Paoli Pike and the building setback line; stormwater management for the increased; and the submission of a landscape plan. The conditional use application should be amended to also include a request for conditional use approval per this section and the applicant will need to demonstrate to the Board's satisfaction that the requirements of this section are addressed.
8. Section 240-33.B. (7) - Handicapped accessible parking spaces must be provided in accordance with 2010ADA requirements. The minimum number of required handicapped parking spaces is one where the overall number of parking spaces ranges between four to 25 spaces. One handicapped space has been provided. However, such space shall be van accessible or 132 inches (11 ft.) wide (ADA Sect. 502). The handicapped spaces are 10 feet wide but should be widened to 11 feet, not including the 5 foot access aisle.
9. Section 240-33.C (8) - Any parking or off-street loading area of five or more spaces which abuts any lot in a residential district shall be provided with a suitable fence, wall, raised berm or evergreen planting at least four feet in height, designed to screen visibility and headlight glare from such residential lot. The property abuts residential lots and should be provided with suitable screening.
10. Section 240-33.C(3) – A minimum of five percent of a parking area shall be landscaped and continually maintained as such. Planting along the perimeter of a parking area shall not be considered as part of the five percent minimum parking area landscaping. The proposed parking lot should be reconfigured to address minimum landscaping requirements within the parking area.
11. Section 240-33.C(7) – All parking areas for any purpose other than single-family residences shall be physically separated from any public street by a concrete curb and a planting strip which shall not be less than 10 feet in depth measured from the street right-of-way line. A planting strip along the Paoli Pike right-of-way line and concrete curb should be incorporated into the parking lot design.
12. Section 240.33.C(9) - Parking areas shall be adequately illuminated if designed for use by more than three cars after dusk. If night time office hours are anticipated, then the parking lot design will need to provide adequate illumination.

13. Section 240.33.D.1 – The plan should indicate the location of an off-street loading space sufficient in size for the largest vehicle that may be utilized for pick-up and deliveries.

Historic Preservation

14. Section 240-38.4 – The parcel contains a barn which is not depicted on the plan. The location of the barn should be indicated on the plan and any proposal for the barn's removal should be reviewed by the Historical Commission.
15. Sections 240-38.6 and 38.7– All area, and bulk regulations and design standards otherwise applicable in the underlying zoning district shall apply to the use or reuse of an historic resource. However, the Board, as part of the conditional use approval may grant modifications to the otherwise applicable area and bulk regulations applicable to the use or adaptive reuse of the historic resource.

The applicant will need to demonstrate to the Board's satisfaction that the granting of conditional use approval is necessary for the preservation of the historic resource for reasons other than purely economic grounds. Additionally, the Applicant will need to satisfactorily demonstrate that the proposal is not destructive to the integrity of the historic resource and/or the proposed modifications will not be out of character with the existing uses located in the immediate neighborhood.

Signage

16. Section 240-38.5.E – The narrative statement notes that the Applicant requests a sign in accordance with this section. A property, on which a historic resource is located and adaptively reused, shall be permitted one freestanding sign with a maximum area of 32 square feet. The proposed sign location should be indicated on the plan

General Comments:

17. The plan or a separate existing conditions plan should indicate the location of all existing features, such as the barn, the source of water supply, drainage improvements, and any easements that cross the parcel.
18. The plan should address how access to the existing garage located along the eastern property line is to be maintained. The garage may need to be demolished in order to accomplish the proposed sanitary sewer connection to the existing sanitary sewer line.

The Applicant should address the above comments to the Board's satisfaction. Please contact our office if you have any questions concerning this review.

Sincerely,
YERKES ASSOCIATES, INC.



Charles E. Jackson III



Michael Conrad, P.E.

Cc: John Smirga, PE

Memorandum

East Goshen Township
1580 Paoli Pike
West Chester, PA 19380

Voice: 610-692-7171
Fax: 610-692-8950
E-mail: mgordon@eastgoshen.org

Date: 4/28/2011
To: Planning Commission
From: Mark Gordon, Township Zoning Officer
Re: 1422 Paoli Pike / Historic resource Adaptive reuse / Conditional Use

Dear Commissioners,

The applicant has received the HRIS Waiver from the Board of Supervisors for the Adaptive Reuse proposed for the property. New information was presented to the Board of Supervisors on 4/19 however I don't believe it was communicated to the Historical Commission and I know it wasn't discussed with the PC. The applicant proposes to construct an addition that is two stories and ~ 5,000 s.f. of office space. This information was not part of the application or plans.

The application before the commission is for an "Adaptive Reuse" of a Historic Resource. How that Historic Resource is incorporated into the new commercial use is an important matter at this stage of the Planning. In light of this new information I don't believe the applicant has provided enough information on how the Historic Resource is going to be impacted and believe that the PC should consider requiring the applicant to conduct a HRIS or at a minimum provide architectural renderings of the proposed addition and conceptual floor plans of the structures showing how the Historic Resource will be incorporated into the proposed office use.

I urge the PC to inquire about the intensity of the use and the total size of the proposed addition. **If the applicant does not present information showing the impact of these use and structural modifications to the property and how those impacts will be mitigated; a sixty day planning extension should be requested to allow for that information to be provided to the Commission.**

At this point I don't believe that the applicant has provided enough to satisfy the planning objectives of a proposed conversion of a residential Historic Resource into a commercial office building. **If the applicant does not agree to a planning extension the Commission should make a recommendation to the Board of Supervisors to deny the conditional use application until proper planning is conducted and presented which supports the proposed adaptive reuse to the Historic Resource.**

Memorandum

East Goshen Township
1580 Paoli Pike
West Chester, PA 19380

Voice: 610-692-7171
Fax: 610-692-8950
E-mail: mgordon@eastgoshen.org

Date: 6/17/2011
To: Planning Commission
From: Mark Gordon, Township Zoning Officer *mb*
Re: Tree Ordinance Amendments

Dear Commissioners:

Enclosed is the amended tree ordinance sections, we sent this back to the county incorporating their comments. I anticipate that the CCPC will not have any further comments; I recommend that the Commission for a recommendation to approve the amendments to the BOS.

*CCPC
Comments
Rec.
7/20/11*

PC MOTION: Mr. Chairman, I move that the Planning Commission recommend that the Board of Supervisors approve these Tree Ordinance amendments for adoption.

Memorandum

East Goshen Township
1580 Paoli Pike
West Chester, PA 19380

Voice: 610-692-7171
Fax: 610-692-8950
E-mail: mgordon@eastgoshen.org

FILE COPY

Date: 6/9/2011
To: Ronald T. Bailey, AICP: Chester County Planning Commission
From: Mark Gordon, Township Zoning Officer
Re: Tree Ordinance Amendment

Ronald,

Enclosed is the amended ordinance amendment for "Trees" which incorporates the CCPC review comments from your April 15, 2011 review letter.

I'd like the Twp. Planning commission to review this with your final comments on July 6, and make their recommendation to the Board of Supervisors so they can approve the amendment on July 12, 2011. **If possible, I'd like your review letter on or before June 28.**

As always, thank you for your prompt attention to this amendment.

-Mark

"A. All preliminary subdivision and land development applications shall be submitted to the Conservancy Board for review and comments which shall be forwarded to the Planning Commission for consideration."

Existing Section 205-29.A shall be renumbered to be Section 205-29.B and existing Section 205-29.B shall be renumbered to be Section 205-29.C.

SECTION 3. Section 205-30.B shall be amended to add the following new subparagraphs (13), (14), (15) and (16):

"(13) All existing trees having a diameter of six inches caliper or greater, their species and size.

(14) Tree(s) proposed to be removed and trees proposed to be maintained.

(15) Specifications for removal of trees.

(16) Specifications for protection of existing trees that are to remain during construction, including grade changes or other work adjacent to the trees which would adversely effect the trees."

SECTION 4. Section 205-32 shall be amended by adding a new subparagraph A which shall state as follows:

"A. All final subdivision and land development applications shall be submitted to the Conservancy Board for review and comments which shall be forwarded to the Planning Commission for consideration."

Existing Section 205-32.A shall be renumbered to be Section 205-32.B and existing Section 205-32.B shall be renumbered to be Section 205-32.C.

SECTION 5. Section 205-61 shall be amended to state as follows:

"§ 205-61. Existing trees.

A. Neither portions of tree masses nor specimen trees shall be cleared unless absolutely necessary. Applicants shall make all reasonable efforts to preserve the existing trees.

B. When a proposed subdivision and/or land development necessitates the clearing of trees or portions of tree masses, applicants shall be guided by the following criteria in selecting trees and ornamentals for retention or clearing:

(1) Aesthetics (autumn coloration, type of flowers and fruit, bark and crown characteristics and amount of dieback present).

(2) Susceptibility of tree to insect and disease attack and to air pollution.

(3) Species longevity.

(4) Wind firmness and characteristic of soil to hold trees.

(5) Wildlife values (e.g., oak, hickory, pine, walnut, and dogwood have high food value).

(6) Climate(e.g., hardwoods reduce summer temperatures to surroundings more effectively than pines or cedars).

(7) Existence of disease, rot or other damage to the tree.

- (8) Protection of buildings (e.g., dead and large limbs hanging over buildings shall be removed).
- (9) The size of the tree at maturity.
- (10) Preservation of Specimen Trees.

C. Unless otherwise provided in Section 205-61.D below, no more than 20% of the trees on any wooded lot may be cleared or removed and the remaining 80% shall be retained.

D. A maximum of 50% of the trees on a wooded lot may be removed if all of the following requirements are met:

- (1) The trees removed that are in excess of the 20% permitted pursuant to § 205-61.C shall be replaced on an inch-for-inch basis.
- (2) The diameter breast height (dbh) of the trees to be removed that are in excess of the 20% shall be determined.
- (3) All replacement trees shall be a minimum three-inch caliper, unless specifically approved by the Board of Supervisors.
- (4) The total diameter of the replacement trees shall equal the dbh of the trees removed (e.g., if a tree having a dbh of 12 inches is removed, it shall be replaced by four trees each having a minimum three-inch caliper or equivalent).
- (5) The replacement trees shall be planted in accordance with a plan prepared by a licensed landscape architect and approved by the Board of Supervisors to ensure that the replacement trees are not located in such a manner that they crowd each other and consequently fail to thrive.
- (6) The Board of Supervisors shall review and approve the species of trees to be used for replacement and such trees shall be selected from a list of trees approved by the Board in a Resolution, as amended from time to time.
- (7) Plantings required pursuant to the buffer yard and landscaping requirements of this chapter may not be considered in calculating the replanting requirements of this section.
- (8) The replanting shall occur on the wooded lot that is being developed or at another location within the Township that is acceptable to the Board of Supervisors.

E. A list of species that are recommended for planting shall be adopted by the Board in a Resolution as amended from time to time.

SECTION 6. Section 205-62 shall be amended to state as follows:

“§ 205-62. Street trees.

Trees with a minimum caliper of 3 inches shall be provided where deemed advisable by the Township Planning Commission and/or Supervisors. Street trees shall be installed on forty-foot centers on the same side of the street. Tree varieties permitted will be determined by the Board of Supervisors but must be chosen from a list adopted by the Board in a Resolution as amended from time to time.

SECTION 7. Existing Section 205-63, titled, “Disposal of debris” shall be renumbered to be Section 205-63.1.

SECTION 8. A new Section 205-63 shall be added which shall read as follows:

“§ 205-63. Protection of existing trees during construction.

Trees to be retained after development must be protected from damage during construction activities. The following procedures shall be observed in order to protect those trees that are to remain.

A. Protection from mechanical injury and construction.

- (1) All trees to be retained shall be protected from equipment damage by enclosing the tree(s) at the edge of the tree protection zone (“TPZ”) with sections of snow fence or other fencing attached to posts which are buried twelve inches (12”) into the ground with at least four feet above the ground and set no more than 12 feet apart. This fencing shall not be removed without Township permission.
- (2) Construction equipment shall not operate within the TPZ nor shall dirt, rocks, debris or other materials be placed therein. The area within the TPZ shall not be built upon, nor shall any materials be stored there either temporarily or permanently. Vehicles and equipment shall not be parked in the TPZ.
- (3) Trees shall not be used for roping, cables, signs or fencing. Nails and spikes shall not be driven into trees.
- (4) Heavy equipment operators shall not operate or park any equipment within the TPZ.
- (5) Exposed roots damaged during construction shall be protected from further damage and cleanly pruned.
- (6) Tree limbs damaged during construction shall be laterally pruned immediately.
- (7) Construction debris shall not be disposed of within the drip line.
- (8) Trenching and root pruning shall not take place within the TPZ.
- (9) Root pruning should not be done unless absolutely necessary and if necessary then no more than one side of the root system shall be pruned in a given year. Optimum timing is autumn.
- (10) Feeder roots shall not be cut closer than 25 feet to tree trunks.

B. Protection from grade change.

- (1) Raising the grade. If an increase in the grade of the land is proposed, the applicant shall install either:
 - (a) A system of gravel and drain tiles at the old soil level opening into a dry well built around the trunk and designed for each tree, individually fitting the contour of the land so that it drains water away from the tree trunk.
 - (b) A retaining wall between the existing grade and higher grade.
- (2) Lowering the grade. If a lowering of the grade is proposed, the applicant shall use one of the following methods, individually designed to each tree:
 - (a) Terracing the grade.
 - (b) Placing a retaining wall between the existing grade and the lower grade.”

SECTION 9. The definitions of “Caliper”, “Historic Tree” and “Tree Protection Zone” in Section 218-1 shall be amended to state as follows:

CALIPER-- For trees which are a minimum of twelve feet in height, the diameter of a tree trunk measured at a point four and one-half (4 ½) feet from the ground surface. For trees that are less than twelve feet in height, the diameter of a tree trunk measured at a point one foot from the ground surface.

HISTORIC TREE -- Any tree over 100 years old identified by a licensed arborist.

TREE PROTECTION ZONE (TPZ) -- An area that is radial to the trunk of a tree in which no construction activity, movement of vehicles, placement of fill or other land disturbance activities shall occur. The tree protection zone shall be 25 feet from the trunk of the tree to be retained or the distance from the trunk to the drip line, whichever is greater. Where there is a group of trees or woodlands, the tree protection zone shall be the aggregate of the protection zones for the individual trees.

SECTION 10. Section 218-2.A shall be amended to state as follows:

“A. Except in cases of emergency work necessary for protection of life or property, it shall be a violation of this chapter for any person, without first obtaining township approval, to do any of the following:

- (1) Cut, break, climb with spurs, injure in any manner or remove any tree.
- (2) Cut down any tree or interfere in any manner with the main roots of any tree.
- (3) Place any rope, guy wire, cable, sign, poster or other fixture on a tree.
- (4) Injure, misuse or remove any device placed to protect trees.
- (5) Place or install any stone, cement or other substance which shall impede the passage of water and air to the roots of any tree.”

SECTION 11. Section 218-4, titled, “Protection of existing trees during construction” shall be deleted.

SECTION 12. Section 218-5, titled, “Permit procedure” shall be deleted.

SECTION 13. Existing Section 218-6, titled, “Violations and penalties” shall be renumbered to be Section 218-4.

SECTION 14. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 15. Repealer. All ordinances or parts of ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 16. Effective Date. This Ordinance shall become effective in five days from the date of adoption.

ENACTED AND ORDAINED this ____ day of _____, 2011.

ATTEST:

**EAST GOSHEN TOWNSHIP
BOARD OF SUPERVISORS**

Louis F. Smith, Secretary

Senya D. Isayeff, Chairman

Donald R. McConathy, Vice-Chairman

E. Martin Shane, Member

Carmen Battavio, Member

Thom Clapper Ph.D, Member



THE COUNTY OF CHESTER

COMMISSIONERS

Terence Farrell
Kathi Cozzone
Ryan A. Costello

Ronald T. Bailey, AICP
Executive Director

PLANNING COMMISSION

Government Services Center, Suite 270
601 Westtown Road
P.O. Box 2747
West Chester, PA 19380-0990
(610) 344-6285 Fax: (610) 344-6515



April 15, 2011

Louis F. Smith, Jr., Manager
East Goshen Township
1580 Paoli Pike
West Chester, PA 19380

Re: Subdivision and Land Development Ordinance Amendment – Tree Protection
SA-3-11-3791 - East Goshen Township

Dear Mr. Smith:

The Chester County Planning Commission has reviewed the proposed amendment as submitted pursuant to the provisions of the Pennsylvania Municipalities Planning Code, Section 505(a). The referral for review was received by this office on March 18, 2011. We offer the following comments to assist in your review of the proposed amendment.

BACKGROUND:

1. The Chester County Planning Commission concurrently reviewed a Zoning Ordinance amendment that referred to multiple use buildings and parking requirements. That review, ZA-3-11-3790, was forwarded to the Township in a letter dated April 15, 2011.

COMMENTS ON THE AMENDMENT:

2. The amendment defines caliper, drip line, historic tree, specimen tree, and tree protection zone. Regulations are included that require the identification of tree masses, areas where trees are to be removed, specifications for tree removal and replacement, tree protection, and design requirements. Other supporting provisions are also included.
3. We suggest that the definition of tree protection zone indicate that the area under the drip line is to be protected (in addition to the disturbance listed in the definition) from the movement of all vehicles, the placement of fill, or any other activities that may cause soil compaction. As an alternative, Section 205-63 could be referenced in the definition (Section 205-63 contains an extensive list of protections).
4. The definitions for caliper and tree protection zone appear twice in two sections of the Ordinance. It may be clearer to include the definitions only once.

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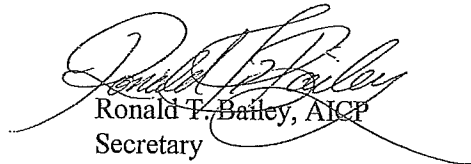
April 15, 2011

Re: Subdivision and Land Development Ordinance Amendment- Tree Protection
SA-3-11-3791 - East Goshen Township

RECOMMENDATION: The Commission recommends that the issues raised in this letter be addressed before action is taken on the proposed amendment.

We request an official copy of the decision made by the Board of Supervisors, as required by Section 505(b) of the Pennsylvania Municipalities Planning Code. This will allow us to maintain a current file copy of your ordinance.

Sincerely,



Ronald T. Bailey, AICP
Secretary

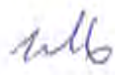
RTB/WSB

cc: Albert J. Giannantonio, East Goshen Township Engineer

Memorandum

East Goshen Township
1580 Paoli Pike
West Chester, PA 19380

Voice: 610-692-7171
Fax: 610-692-8950
E-mail: mgordon@eastgoshen.org

Date: 6/23/2011
To: Planning Commission
From: Mark Gordon, Township Zoning Officer 
Re: Ordinance Amendment (Wireless)

Dear Commissioners:

Attached is the Final Draft of the WCF Ordinance amendment incorporating comments from the Board of Supervisors, Staff and the Township solicitor. The ordinance was sent to the CCPC on 6/17/2011 for review and comment. At the time of this memo the review comments had not been received if we receive them prior to the meeting I will forward them to everyone and have copies available for everyone at the meeting.

Draft Motion: Wireless Communication Facilities

Mr. Chairman, I move that we recommend that Board of Supervisors approve this amendment to the Wireless Communication Facility ordinance.

EAST GOSHEN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. ____ - 2011

AN ORDINANCE OF EAST GOSHEN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 240 OF THE EAST GOSHEN TOWNSHIP CODE, TITLED, "ZONING", SECTION 240-15.B TO ALLOW WIRELESS COMMUNICATIONS FACILITIES ON TOWNSHIP OWNED PROPERTY IN THE C-2 DISTRICT BY RIGHT; BY ADDING A NEW SECTION 240-15.H TO ESTABLISH REGULATIONS FOR WIRELESS COMMUNICATIONS FACILITIES WHICH ARE BUILT ON TOWNSHIP-OWNED PROPERTY IN THE C-2 DISTRICT AND SECTION 240-31.C(3)(h) TO AMEND THE REGULATIONS FOR WIRELESS COMMUNICATIONS FACILITIES.

BE IT ENACTED AND ORDAINED, by the Board of Supervisors of East Goshen Township, that Chapter 240 of the Code of the Township of East Goshen, titled, "Zoning", shall be amended as follows:

SECTION 1. Section 240-15.B. shall be amended by adding a new subparagraph (12) which shall read as follows:

"(12) Wireless communications facilities on Township-owned property, subject to compliance with the standards in § 240-15.H."

SECTION 2. A new Section 240-15.H shall be added which shall read as follows:

"§ 240-15.H. Standards for Wireless Communications Facilities Built on Township-Owned Property.

All applicants seeking to construct, erect, relocate or alter a Wireless Communications Facility on Township-owned property in the C-2 District shall demonstrate compliance with the criteria in Section 240-31.C(3)(h) as part of the application for building permit. Any materials or documents that must be submitted to the Board of Supervisors as part of the conditional use application for wireless communications facilities built in the I-1 and BP Districts pursuant to Section 240-31.C(3)(h) shall be submitted instead to the Building Official as part of the building permit application for a wireless communications facility built on Township-owned property in the C-2 District. The Building Official shall not issue a building permit for the wireless communications facility until the applicant has demonstrated compliance with

the criteria in Section 240-31.C(3)(h) and the Township has entered a lease or license agreement with the owner of the wireless communications facility.

SECTION 3. Section 240-31.C(3)(h) shall be revised as follows:

“(h) Wireless communications facilities.

[1] Purpose. The purpose of this subsection and the standards established herein are to govern the use, construction and siting of wireless communications facilities in recognition of the nature of wireless communications systems and the Federal Telecommunications Act of 1996, as amended from time to time. These regulations are intended to:

[a] Accommodate the need for wireless communications facilities while regulating their location and number so as to ensure the provision for necessary services.

[b] Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish, and by requiring that competing providers of wireless communications services collocate their commercial communications antennae and related facilities on existing towers if possible.

[c] Ensure the structural integrity of commercial communications antenna support structures through compliance with applicable industry standards and regulations, including the Township’s Building Code.

[d] Promote the health, safety and welfare of the Township's residents.

[2] Standards for commercial communications antenna erected on a commercial communications support structure. All applicants seeking to construct, erect, relocate or alter a commercial communications support structure shall comply with the following regulations. A written narrative that addresses how the applicant will meet each of the regulations listed below shall be submitted with the conditional use application.

[a] Location and height.

[i] Permissible Locations. Wireless communications facilities must be located on property within the following zoning districts where permitted by right or as a conditional use and only in such location within that district and at a minimum height necessary to satisfy their function in the applicant's wireless communications system. The zoning districts in which wireless communications facilities are permitted by conditional use are the BP and I-1 Districts. Wireless

Communications Facilities are also permitted by right on Township-owned property in the C-2 District.

- [ii] Maximum heights. No commercial communications antenna support structure serving a single provider shall be taller than 120 feet, measured from undisturbed ground level, unless the applicant proves that another provider of wireless communications services has agreed to collocate commercial communications antenna(e) on the applicant's commercial communications antenna support structure. In such case, the commercial communications antenna support structure shall not exceed 150 feet. No applicant shall have the right under these regulations to erect a tower to the maximum height specified, unless it proves the necessity for such height. The applicant shall demonstrate that the proposed height of the commercial communications antenna support structure and the commercial communications antennae intended to be attached thereto is the minimum height required to provide satisfactory service for wireless communications.

[b] Conditional Use Application.

- [i] Site plan. A site plan shall be submitted with the conditional use application which shows all existing and proposed structures and improvements, including but not limited to the commercial communications antenna(e), commercial communications antenna support structure, building, fencing, landscaping, parking, ingress and egress. In addition, the site plan shall show each of the contiguous properties, identified by tax parcel number and owner, depicting all buildings and structures located on such properties and their principal and/or accessory uses. The plan shall comply with the requirements for a final plan as set forth in Chapter 205, Subdivision and Land Development.
- [ii] Miscellaneous Information and Reports. The conditional use application shall be accompanied by the following:
 - [a] A propagation study demonstrating that there is a substantial gap in coverage for the provider;
 - [b] A description of the type and manufacturer of the proposed transmission/radio equipment;

- [c] A study demonstrating compliance with the noise standards in Section 240-24 of this chapter. In instances where there are multiple carriers or multiple equipment boxes proposed to be built on one site, the applicant must demonstrate that the cumulative noise from all carriers' equipment shall comply with the noise standards in this chapter;
 - [d] The name, address and contact information for the primary and secondary contact person responsible for the facility operation and maintenance;
 - [e] A report which addresses the potential impacts associated with constructing the facility and possible mitigation measures if negative impacts are expected to occur on surrounding properties;
 - [f] A report from a registered professional engineer that confirms that the radiofrequency emissions from the proposed facility will comply with the Federal Communications Commission standards;
 - [g] A certificate of insurance issued to the owner/operators, evidencing that there is or will be adequate current liability insurance in effect insuring against liability for personal injuries and death and property damage caused by the land site and the proposed facilities;
 - [h] A copy of the lease or other written agreement with the property owner confirming that Applicant has standing to file the application and maintain the proposed facility on the subject property.
- [iii] Licensing and applicable regulations. If the applicant is a commercial wireless communications company, it must demonstrate that it is licensed by the Federal Communications Commission (FCC) and submit with the conditional use application copies of all FCC permits and licenses. All such information shall be accompanied by a certification signed by an officer of the applicant providing that, after due inquiry, the information being supplied is true and correct to the best of their knowledge, information and belief.

- [iv] Section 106. The applicant shall provide proof to the Township that it has complied with Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470f, as amended, and has reviewed the effects of the proposed wireless communications facilities on local historic resources that are included in or eligible for inclusion in the National Register of Historic Properties.
 - [v] Maintenance. During the conditional use hearing the applicant shall describe anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and the traffic safety and noise impacts of such maintenance. If approved, the applicant shall be responsible for maintaining the commercial facility in the manner described in the hearing.
 - [vi] Collocation. Prior to the Board's approval of a conditional use authorizing the construction and installation of a commercial communications antenna support structure (tower) it shall be incumbent upon the applicant to prove to the reasonable satisfaction of the Board that the applicant cannot adequately extend or infill its communications system by the use of equipment such as repeaters, antenna(e) and other similar equipment installed on existing structures, such as utility poles, existing commercial communications support structures, and other available tall structures. The applicant shall demonstrate that it has contacted the owners of structures of suitable location and height within a one-mile radius of the site proposed, has asked for permission to install the commercial communications antenna(e) on those structures and has been denied such permission. The Board of Supervisors may deny an application to construct a new commercial communications antenna support structure if the applicant has not made a good faith effort to mount the commercial communications antenna(e) on an existing structure as set forth in this section.
- [c] Building Permit Required. Upon approval of the conditional use application, the applicant shall apply for and obtain a building permit prior to the erection of the commercial communications support structure.
- [i] Soil report. A soil report complying with the standards of Geotechnical Investigations, ANSI/EIA-222-E, as amended, shall be submitted to the Township Engineer to document and verify the design specifications of the foundation for the

commercial communications antenna support structure, and anchors for the guy wires, if used.

- [ii] Certification by engineer. Prior to the Township's issuance of a permit authorizing construction and erection of a commercial communications antenna support structure, a structural engineer registered in Pennsylvania shall issue to the Township a written certification of its ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association, and certify the proper construction of the foundation and the erection of the commercial communications antenna support structure.

[d] Wireless communications equipment building or pad. Either one single-story wireless communications equipment building not exceeding 500 square feet in area, or a concrete pad not exceeding 500 square feet in area that houses the equipment necessary for the proper functioning of the tower and commercial communications antenna(s) may be located on the property where the tower is located. This pad must be setback a minimum of ten feet from any property line and the combined height of the pad and any structures erected on such pad may not exceed eight feet. Each unrelated company sharing commercial communications antenna(e) space on the tower may have its own building or pad provided that the total area of all buildings or pads on the site shall not exceed 500 square feet, unless otherwise approved by the Board.

[e] Other facilities. With the exception of the wireless communications equipment building or pad housing the equipment necessary for the proper functioning of the tower and commercial communications antenna(s), all other uses ancillary to commercial communications antenna(s) and commercial communications antenna support structures, including but not limited to a business office, mobile telephone switching office, maintenance depot and vehicular storage area shall not be located on any land site, unless otherwise permitted by the applicable district regulations in which the site is located.

[f] Utilities. All utilities required for the facility shall be located underground.

[g] Setbacks from tower base. The minimum setback for the tower base shall comply with the minimum setbacks established for the zoning district in which the tower is located.

[h] Antenna support structure safety. The applicant shall demonstrate that the proposed commercial communications antenna(e) and commercial communications antenna support structure are designed and constructed in accordance with all applicable building standards for such facilities and structures, including but not

limited to the standards developed by the Electronics Industry Association, the Institute of Electrical and Electronics Engineer, the Telecommunications Industry Association, the American National Standards Institute, the Electrical Industry Association and the Township's applicable Building Code. The applicant shall demonstrate that the proposed wireless communications facility is designed in such a manner so that no part of the facility will attract/deflect lightning onto adjacent properties.

[i] Fencing. A security fence having a minimum height of six (6) feet shall be required around the antenna support structure and other equipment.

[j] Landscaping. Unless prohibited by federal or state laws, the following landscaping shall be required to screen as much of a newly constructed commercial communications antenna support structure as possible. The Board of Supervisors may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if, in the discretion of the Board of Supervisors, they achieve the same degree of screening as the required landscaping.

[i] An evergreen screen shall be required to surround the commercial communications antenna support structure. The screen can be either a hedge planted three feet on center maximum or a row of evergreen trees planted 10 feet on center maximum. The evergreen screen shall be a minimum planted height of six feet at planting and shall be capable of growing to a minimum of 15 feet at maturity.

[ii] Existing vegetation on and around the land site shall be preserved to the greatest extent possible.

[iii] The landscaping shall be maintained by the applicant for as long as the facility is in operation.

[k] Design. In order to reduce the number of commercial communications antenna support structures in the Township in the future, the proposed commercial communications antenna support structure shall be designed to accommodate other potential communication users, including but not limited to commercial wireless communication companies, local police, fire and ambulance companies.

[l] Proof of annual inspection.

[i] Annually, the owner of a commercial communications antenna support structure shall submit to the Township proof of the annual inspection of the commercial communications antenna support structure and commercial communications antenna(e) by an independent professional engineer as

required by the ANSI/EIA/TIA-222-E Code. Based upon the results of such inspection, the Board of Supervisors may require removal or repair of the wireless communications facility.

- [iii] In the event that the annual inspection referred to above is not performed in a timely manner or if the owner of the wireless communications facility fails to make the necessary repairs or to remove the facility when directed by the Board the owner shall be subject to civil enforcement proceedings in accordance with § 240-54.

[m] Required parking. If the wireless communication facility is fully automated, a minimum of two spaces shall be provided unless the applicant demonstrates to the satisfaction of the Board of Supervisors that adequate parking is available. If the wireless communication facility is not fully automated, the number of required parking spaces shall equal the number of employees present at the wireless communication facility during the largest shift.

[n] Visual appearance. Commercial communications antenna support structures shall be painted silver, or another color approved by the Board, or shall have a galvanized finish. All wireless communications equipment buildings and other accessory facilities shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible.

[o] Signs. No sign or other structure shall be mounted on the wireless communications facility, except as may be required by the FCC, FAA or other governmental agency.

[p] Lighting. Commercial communications antenna support structures shall meet all Federal Aviation Administration (FAA) regulations. No commercial communications antenna support structure may be artificially lighted except when required by the FAA or other governmental authority. When lighting is required by the FAA or other governmental authority, it shall be limited to the minimum lumens and number of lights so required and it shall be oriented inward so as not to project onto surrounding properties. The applicant shall promptly report any outage or malfunction of FAA mandated lighting to the appropriate governmental authorities and to the Township Secretary.

[q] Abandonment. If use of the wireless communications facility is abandoned, or if the wireless communications facility is not in use for a period of six months or longer, the owner shall demolish and/or remove the wireless communications facility from the land site within six months of such abandonment and/or nonuse. All costs of demolition and/or removal shall be borne by the owner of the wireless communications facility. In the event that the demolition and/or removal referred to

above is not performed in a timely manner, the owner shall be subject to civil enforcement proceedings in accordance with § 240-54C.

[r] Interference. In the event that the wireless communications facility causes interference with the radio or television reception of any Township resident for a period of three continuous days, the resident shall notify the applicant of such interference and the applicant, at the applicant's sole expense, shall thereafter ensure that any interference problems are promptly corrected. In the event that the interference is not corrected in a timely manner, the applicant shall be subject to the civil enforcement proceedings in accordance with § 240-54C.

[s] Annual report. In January of each year, the owner of any wireless communications facility shall pay the registration fee as established from time to time by resolution of the Board of Supervisors and shall provide the Township with the following information.

- [i] The names and addresses of the owner of the wireless communications facility and any organizations utilizing the wireless communications facility and telephone numbers of the appropriate contact person in case of emergency.
- [ii] The name and address of the property owner on which the wireless communications facility is located.
- [iii] The location of the wireless communications facility by geographic coordinates, indicating the latitude and longitude.
- [iv] Output frequency of the transmitter.
- [v] The type of modulation, digital format and class of service.
- [vi] Commercial communications antenna(e) gain.
- [vii] The effective radiated power of the commercial communications antenna(e).
- [viii] The number of transmitters, channels and commercial communications antenna(e).
- [ix] A copy of the owner's or operator's FCC authorization.
- [x] Commercial communications antenna(e) height.
- [xi] Power input to the commercial communications antenna(e).
- [xii] Distance to nearest base station.

- [xiii] A certification signed by an officer of the applicant that the wireless communications facility is continuing to comply with this chapter and all applicable governmental regulations, including but not limited to output and emission limits established by the FCC.
- [xiv] A certificate of insurance issued to the owner/operators, evidencing that there is adequate current liability insurance in effect insuring against liability for personal injuries and death and property damage caused by the land site and the wireless communications facilities.
- [xv] Changes occurring with respect to any of the information required above shall be reported to the Township, in writing, within 10 days of the effective date of such changes. The failure to supply the annual report by the close of January shall result in the issuance of an enforcement notice in accordance with § 240-54.

[3] Standards for commercial communications antenna erected on an existing structure. In all zoning districts, an applicant may, upon conditional use approval being granted by the Board, locate commercial communications antenna and their support members (but not a commercial communications antenna support structure) on an existing smoke stack, utility pole, water tower, commercial or industrial building or any similar tall structure pursuant to the requirements in this Section 240-31.C(3)(h)[3]. All applicants seeking to construct, erect, relocate or alter a commercial communications antenna on an existing structure shall comply with the following regulations. A written narrative that addresses how the applicant will meet each of the regulations listed below shall be submitted with the conditional use application.

[a] Location and height.

- [i] The commercial communications antenna must be located on an existing structure. For purposes of this Subsection, in order to constitute an existing structure, the structure must be one that was constructed and/or erected prior to April 7, 1998.
- [ii] Steeple exception to existing structure requirement. The applicant may, upon conditional use approval being granted by the Board of Supervisors, install a commercial communications antenna in any zoning district, in accordance with the provision of this section provided the commercial communications antenna shall be located

entirely within a steeple located on a place of worship and no portion of the antenna shall be visible from the outside.

- [iii] Limitations on Height. In no event shall mounted commercial communications antenna(e) extend more than 25 feet above the height of the existing structure. The applicant shall demonstrate that the proposed height of the commercial communications antenna is the minimum height required to provide satisfactory service for wireless communications.

[b] Conditional Use.

- [i] Site plan. A site plan shall be submitted with the conditional use application which shows all existing and proposed structures and improvements, including but not limited to the commercial communications antenna(e), the existing structure to which the commercial communications antenna(e) will be attached, building, fencing, landscaping, parking, ingress and egress. In addition, the site plan shall show each of the contiguous properties, identified by tax parcel number and owner, depicting all buildings and structures located on such properties and their principal and/or accessory uses. The plan shall comply with the requirements for a final plan as set forth in Chapter 205, Subdivision and Land Development.
- [ii] Miscellaneous Information and Reports. The conditional use application shall be accompanied by the following:
 - [a] A propagation study demonstrating that there is a substantial gap in coverage for the provider;
 - [b] A description of the type and manufacturer of the proposed transmission/radio equipment;
 - [c] A study demonstrating compliance with the noise standards in Section 240-24 of this chapter. In instances where there are multiple carriers or multiple equipment boxes proposed to be built on one site, the applicant must demonstrate that the cumulative noise from all carriers' equipment shall comply with the noise standards in this chapter;

- [d] The name, address and contact information for the primary and secondary contact person responsible for the facility operation and maintenance;
 - [e] A report from a registered professional engineer that confirms that the radiofrequency emissions from the proposed facility will comply with the Federal Communications Commission standards.
 - [f] A certificate of insurance issued to the owner/operators, evidencing that there is or will be adequate current liability insurance in effect insuring against liability for personal injuries and death and property damage caused by the land site and the proposed wireless communications facilities;
 - [g] A copy of the lease or other written agreement with the property owner confirming that Applicant has standing to file the application and maintain the proposed facility on the subject property.
- [iii] Licensing and applicable regulations. If the applicant is a commercial wireless communications company, it must demonstrate that it is licensed by the Federal Communications Commission (FCC) and submit with the conditional use application copies of all FCC permits and licenses. All such information shall be accompanied by a certification signed by an officer of the applicant providing that, after due inquiry, the information being supplied is true and correct to the best of their knowledge, information and belief.
- [iv] Section 106. The applicant shall provide proof to the Township that it has complied with Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470f, as amended, and has reviewed the effects of the proposed wireless communications facilities on local historic resources that are included in or eligible for inclusion in the National Register of Historic Properties.
- [v] Maintenance. During the conditional use hearing the applicant shall describe anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and the traffic safety and noise impacts of such maintenance. If approved, the applicant shall be responsible for maintaining the commercial communications antenna(e)

in the manner described in the hearing or as required by the Board as part of the conditional use approval.

[c] Building Permit Required. Upon approval of the conditional use application the applicant shall apply for and obtain a building permit prior to the erection of the commercial communications antenna on an existing structure. Prior to the Township's issuance of a permit authorizing construction and erection of a commercial communications antenna, a structural engineer registered in Pennsylvania shall issue to the Township a written certification that confirms that the existing structure can support the load of the proposed antenna and all cables associated therewith.

[d] Wireless communications equipment. A concrete pad not exceeding 10 feet by 20 feet in area that contains up to three metal boxes housing the equipment necessary for the proper functioning of the antenna may be located on the property where the commercial communications antenna will be located. This pad must be setback a minimum of ten feet from any property line and the combined height of the pad and boxes may not exceed eight feet. Each unrelated company having an antenna on the existing structure may have its own concrete pad provided that the total area of all pads for all carriers located on the structure shall not exceed 500 square feet, unless otherwise approved by the Board.

If the commercial communications antenna is installed on an existing utility pole, the Board may authorize the installation of one or more cabinets on the utility pole upon which the antenna(s) is located. The cabinets shall be located at the maximum height allowed by the owner of the utility pole, however, in no case shall the bottom of any cabinet be less than eight feet above ground level. The Board shall approve the color, size and orientation of the cabinet(s) on the pole.

[e] Other facilities. With the exception of the wireless communications equipment pad housing the equipment necessary to the proper functioning of the commercial communications antenna(s), all other uses ancillary to commercial communications antenna(s), including but not limited to a business office, mobile telephone switching office, maintenance depot and vehicular storage area shall not be located on any land site, unless otherwise permitted by the applicable district regulations in which the site is located.

[f] Utilities. All utilities required for the antenna and associated ground equipment shall be located underground.

[g] Required parking. If the wireless communication antenna is fully automated, a minimum of two spaces shall be provided unless the applicant demonstrates to the satisfaction of the Board of Supervisors that adequate parking is available. If the wireless communication antenna is not fully automated, the number of required parking spaces shall equal the number of employees present at the wireless communication antenna during the largest shift.

[h] Safety of Antenna. The applicant shall demonstrate that the proposed commercial communications antenna(e) are designed and constructed in accordance with all applicable building standards for such facilities and structures, including but not limited to the standards developed by the Electronics Industry Association, the Institute of Electrical and Electronics Engineer, the Telecommunications Industry Association, the American National Standards Institute, the Electrical Industry Association and the Township's applicable Building Code. The applicant shall demonstrate that the proposed wireless communications facility is designed in such a manner so that no part of the facility will attract/deflect lightning onto adjacent properties.

[i] Fencing. A security fence having a minimum height of six (6) feet shall be required around the equipment buildings or pads.

[j] Landscaping. Unless prohibited by federal or state law, the following landscaping shall be required to screen the equipment building or pads. The Board of Supervisors may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if, in the discretion of the Board of Supervisors, they achieve the same degree of screening as the required landscaping.

[i] An evergreen screen shall be required to surround the equipment building or pad. The screen can be either a hedge planted three feet on center maximum or a row of evergreen trees planted 10 feet on center maximum. The evergreen screen shall be a minimum planted height of six feet at planting and shall be capable of growing to a minimum of 15 feet at maturity.

[ii] Existing vegetation on and around the land site shall be preserved to the greatest extent possible.

[iii] The landscaping shall be maintained by the applicant for as long as the facility is in operation.

[k] Proof of annual inspection.

[i] Annually, the owner of a commercial communications antenna shall submit to the Township proof of the annual inspection of the commercial communications antenna by an independent professional engineer as required by the ANSI/EIA/TIA-222-E Code. Based upon the results of such inspection, the Board of Supervisors may require removal or repair of the wireless communications facility.

- [ii] In the event that the annual inspection referred to above is not performed in a timely manner or if the owner of the antenna fails to make the necessary repairs or to remove the antenna when directed by the Board, the owner shall be subject to civil enforcement proceedings in accordance with § 240-54.

[l] Lighting. Commercial communications antenna shall meet all Federal Aviation Administration (FAA) regulations. No commercial communications antenna may be artificially lighted except when required by the FAA or other governmental authority. When lighting is required by the FAA or other governmental authority, it shall be limited to the minimum lumens and number of lights so required and it shall be oriented inward so as not to project onto surrounding properties. The applicant shall promptly report any outage or malfunction of FAA mandated lighting to the appropriate governmental authorities and to the Township.

[m] Abandonment. If use of the wireless communications antenna is abandoned, or if the wireless communications antenna is not in use for a period of six months or longer, the owner shall remove the wireless communications antenna from the existing structure within six months of such abandonment and/or nonuse. All costs of demolition and/or removal shall be borne by the owner of the wireless communications antenna. In the event that the demolition and/or removal referred to above is not performed in a timely manner, the owner shall be subject to civil enforcement proceedings in accordance with § 240-54C.

[n] Interference. In the event that the wireless communications antenna causes interference with the radio or television reception of any Township resident for a period of three continuous days, the resident shall notify the applicant of such interference and the applicant, at the applicant's sole expense, shall thereafter ensure that any interference problems are promptly corrected. In the event that the interference is not corrected in a timely manner, the applicant shall be subject to the civil enforcement proceedings in accordance with § 240-54C.

[o] Visual appearance. All wireless communications equipment buildings and other accessory facilities shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible.

[p] Annual report. In January of each year, the owner of any wireless communications antenna shall pay the registration fee as established from time to time by resolution of the Board of Supervisors and shall provide the Township with the information specified in Section 240-31(h)[2][s]. Failure to supply the annual report by the close of the following January shall result in the issuance of an enforcement notice in accordance with Section 240-54.

[q] Signs. No sign or other structure shall be mounted on the wireless communications antenna, except as may be required by the FCC, FAA or other governmental agency."

SECTION 4. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 5. Repealer. All ordinances or parts of ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 6. Effective Date. This Ordinance shall become effective in five days from the date of adoption.

ENACTED AND ORDAINED this _____ day of _____, 2011.

ATTEST:

**EAST GOSHEN TOWNSHIP
BOARD OF SUPERVISORS**

Louis F. Smith, Secretary

Senya D. Isayeff, Chairman

Donald R. McConathy, Vice-Chairman

E. Martin Shane, Member


Carmen Battavio, Member

Thom Clapper Ph.D, Member

Memorandum

East Goshen Township
1580 Paoli Pike
West Chester, PA 19380

Voice: 610-692-7171
Fax: 610-692-8950
E-mail: mgordon@eastgoshen.org

Date: 6/30/2011
To: Planning Commission
From: Mark Gordon, Township Zoning Officer 
Re: Signs (Electronic, LED, LCD)

Dear Commissioners:

Enclosed is the result of some more internet searching I did on Electronic signs. Pursuant to our conversation last month there seemed to be a consensus that we want to insure that our ordinance is strong enough to defend especially the prohibited signs we define today.

"Flashing signs" is not currently defined in our ordinance and since we prohibit them (page six) I believe we should at consider defining it. I found several definitions of Flashing signs and I believe that if we incorporate the text amendment I propose on **page one** it will cover electronic animated LCD TV type signage too.

FYI: Wiggins Furniture is considering an LCD type sign at his store in the C-1 District where flashing signs are permitted! I just denied a permit yesterday for SS Peter and Paul Church for a huge message board and illuminated sign in the R-2 district.

I am also suggesting a text amendment in the attached document on **page five** for real estate signs for Open Houses. The reasoning is that I believe that since transfer taxes are a big revenue source for the Township we should allow this type of sign in order to help realtors promote and market the available real estate in the Township. This would also save some Township staff time that we currently spend on removing these signs.

DEFINITIONS FOUND FOR ELECTRONIC SIGNAGE

Blaine, MN

SIGNS, ELECTRONIC READERBOARD: A sign which uses artificial lights as an integral part of the message. The message is changed by electronic means, not manually. (Amended 6-5-86. Ord. 86-934)

SIGN, FLASHING: Any illuminated sign that has artificial light or color which is not maintained at a constant intensity or color when such sign is in use. A flashing sign shall not include electronic readerboard signs providing the sign is in compliance with Section 34.07(3). (Amended 6-5-86. Ord. 86-934)

SIGN, ILLUMINATED: Any sign that is lighted by artificial means. (Amended 6-5-86. Ord. 86-934)

Laguna Hills, CA

Sign, Light Emitting Diode. "Light Emitting Diode sign" or LED sign" means a sign consisting of one or more semiconductor diodes that emit light when voltage is applied to it, or other similar illumination technologies.

Stedman, NC

Flashing Sign: Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this ordinance, any moving, illuminated sign shall be considered a "flashing sign"; such signs shall not be deemed to include time and temperature signs, mechanical/digital signs or public message displays using electronic switching, provided the message remains displayed for a minimum of eight seconds.

Mechanical / Digital Sign: Any sign with changeable copy and the message changes in increments of at least eight seconds shall be considered as a "sign" under this article

§240-6 Definitions

SIGN -- A lettered board, structure, display, illustration or other surface, or any other graphic device used to visually announce, advertise or convey information to the public for any purpose, and which is visible from outside of a building.

(1) DIRECTIONAL SIGN -- An informational sign indicating direction, entry or exit, loading or service area, fire lanes, parking, no trespassing or similar information incidental to the primary use and not itself advertising that use.

(2) FREESTANDING SIGN -- A sign and supporting structure which is self-supporting upon the ground or which is supported by means of poles, pylons or standards in the ground. A freestanding sign is not attached to a building except by secondary supports such as guy wires.

(3) FLASHING SIGN -- Flashing Sign: Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this ordinance, any moving, illuminated sign shall be considered a "flashing sign"; such signs shall not be deemed to include time and temperature signs.

(3) IDENTIFICATION SIGN -- A sign identifying a home occupation or identifying the use of a property, but one that has no advertisement.

(4) ILLUMINATED SIGN, DIRECT -- A sign which is designed to be illuminated by artificial light from a source adjacent to or outside of the sign in such a manner that the source of the light is not directly visible from the street or any other intended vantage point of the sign.

(5) ILLUMINATED SIGN, INDIRECT -- A sign which is designed to be illuminated by light from within the sign rather than a source adjacent to or outside of the sign.

(6) MENU BOARD -- A sign that (only) lists types and prices of food and beverage offered for sale. Such sign includes but is not limited to a bill of fare or a price list.

(7) MOVABLE SIGN -- A sign which is not secured or attached to a structure or to the ground.

(8) NAMEPLATE SIGN -- A sign indicating only the name and/or address of persons or person residing on or legally occupying the premises.

(9) OFFICIAL SIGN -- A sign erected by the state, county, Township or other legally constituted governmental body.

(10) OFF-PREMISES SIGN -- A sign which directs attention to an object, product, service, place, activity, person, institution, organization or business that is primarily offered or located at a location other than the lot upon which the sign is located. This includes signs commonly called "billboards."

(11) POLITICAL SIGN -- A sign which indicates the name, cause or affiliation of a person seeking public office or on which reference is made to an issue for which a referendum is scheduled to be held.

(12) PUBLIC SERVICES SIGN -- A sign which advertises availability of rest rooms, telephone, meeting times of service organizations or other similar public conveniences.

(13) TEMPORARY SIGN -- A sign constructed of paper, cloth, canvas, wood, metal or any lightweight material intended to be displayed for a short period of time, normally less than 30 days.

(14) TIME AND TEMPERATURE SIGNS -- A sign or portion of a sign whose sole purpose is to indicate the time and/or temperature.

(15) VEHICULAR SIGN -- A sign affixed or painted on a vehicle, trailer or similar device.

(16) WALL SIGN -- A sign posted on, painted on, suspended from or otherwise affixed to a wall or vertical surface of a building which does not project more than 12 inches from the wall or vertical surface to which it is attached.

(17) WALL-SIGNABLE AREA -- A continuous rectangular area on the wall of a building.

(18) WINDOW SIGN -- A temporary sign attached to or affixed to the interior of a window or door, or a sign which is readily visible and can be read from the exterior through a window or door from a distance of 20 feet therefrom. Such sign shall not be internally illuminated.

SIGN, HEIGHT OF -- The vertical distance measured from the average ground level immediately below a sign to the highest point of the sign and its supporting structure.

§240-22 Signs

Sign regulations applicable to all districts.

A. Scope and applicability.

(1) Permit required. A zoning permit shall be required for all signs allowed in any zoning district except for signs listed in Subsections H, I and J. All signs shall comply with the regulations of this chapter.

(2) Special permit required. A special permit(s), not to exceed 30 days in any calendar year for all special permits, may be issued for promotional devices, floodlights, flags, banners or other attention getting devices for special occasions for new or existing businesses in any commercial or industrial district.

(3) Temporary permit required. A temporary zoning permit will be required for any sign erected and maintained by a developer on a tract of ground. Permits will be valid for six months but may be renewed by the Zoning Officer. Such sign shall not exceed 32 square feet in area.

B. Nonconforming signs.

(1) Signs legally existing at the time of enactment of this chapter and which do not conform to the requirements of this chapter shall be considered nonconforming signs. Any nonconforming sign which is damaged in excess of 25% of its cost of replacement or is removed shall be replaced only with a conforming sign. Legal nonconforming signs may be repainted or repaired (including lighting), provided that such repainted or repaired sign does not exceed the dimensions of the existing sign. Wording may also be changed.

(2) Signs advertising a use no longer in existence shall be removed or changed to advertise the new use within 30 days of the cessation of the original use. Signs once removed shall be replaced only by signs in conformance with this chapter.

(3) It is the responsibility of the owner of a sign to provide evidence that a sign is lawfully nonconforming and to register such sign with the Zoning Officer.

C. Construction of signs. Every sign permitted in this section must be constructed of durable materials and must be kept in good condition and repair. Any sign which is allowed to become dilapidated may be repaired or removed by the Township at the expense of the owner or lessee of the property on which it is located upon written notice to both tenant and landlord.

D. Abandoned signs. No person shall maintain or permit to be maintained on any premises owned or controlled by him a sign which has been abandoned.

(1) An abandoned sign for the purpose of this chapter is a sign located on and/or related to the use of a property which becomes vacant and unoccupied for a period of six months or more; any sign which was erected for an occupant or business unrelated to the present occupant in business; or any sign which relates to a time, event or purpose which is past.

(2) Any such abandoned sign shall be abated by the owner or person controlling the property within 30 days of the date of abandonment as herein defined.

E. Location of signs. The location for signs shall be governed by the following location requirements:

(1) No sign except official signs, name plate signs, bus shelter signs, public service signs (such as telephone) and directional signs shall be erected within or project over a street right-of-way.

(2) No sign shall be so located or arranged that it interferes with the sight distance requirements of § 240-23D(11).

(3) No signs except official signs, political signs, public service signs, bus shelter signs or off-premises signs permitted by Subsection P shall be erected on a property to which it does not relate.

(4) No sign except removable political signs and temporary yard or garage sale signs shall be placed on any tree, official sign, rocks or other natural features.

(5) All signs erected in any zoning district, except C-1, shall comply with the side yard requirements for the district. A freestanding sign may be erected one foot from the side property line in the C-1 Commercial District.

F. Illuminated signs.

(1) The lighting of signs shall be arranged so that a bare light bulb, spotlight bulb or fluorescent bulb is not visible off the lot. Any lighting of signs shall be the minimum necessary to make the sign visible from a distance of 500 feet.

(2) No sign in any residential zoning district established in § 240-5 of this chapter shall be indirectly and/or internally illuminated unless specifically permitted by another provision of this chapter.

[Amended 11-16-1999 by Ord. No. 129-J-99]

(3) See also § 240-24H regarding light and glare control.

G. Vehicle signs. Any vehicle or structure to which a sign is affixed in such a manner that the carrying of such sign or signs no longer is incidental to the primary purpose of the vehicle or structure but becomes a primary purpose in itself shall be considered a freestanding sign and as such be subject to the provisions regarding freestanding signs in the district in which such vehicle or structure is located. All vehicles associated with a commercial establishment shall be parked in a location that precludes the vehicle from being used as a freestanding sign.

H. Menu boards, bills of fare or price lists. A menu board (as defined under "sign" in § 240-6) shall not be considered a sign within the meaning of this chapter, provided that all of the following conditions are met:

(1) Such sign is three square feet or less in area.

(2) Such sign has letters and numbers a maximum of three inches in height.

(3) Such sign is located on the building next to the entrance of the establishment or in the window next to the entrance to the establishment.

(4) Such sign shall only be permitted for use in conjunction with a restaurant.

I. Temporary signs. The following signs are permitted and do not require a zoning permit, provided that they are removed in the time specified and conform to the sign requirements of this section. Any such sign that does not meet the requirements of this section shall only be permitted if it meets the provisions for another type of permitted sign.

(1) Yard or garage sale signs, provided that they do not exceed four square feet in area and are removed within 48 hours after sale, and provided that a maximum of three such signs are posted.

(2) Signs giving notice of the sale or rental of the property on which the sign is located, provided that such sign does not exceed eight square feet in area in the R-1 (PRD Residential Area), R-2, R-3, R-4

and R-5 Zoning Districts, and 20 square feet in area in the R-1 (PRD Commercial Area), C-1, C-2, C-4, C-5, I-1, I-2 and BP Zoning Districts, and are removed within 72 hours upon settlement of the sale or upon signing of the lease of rental. Open house directional signs may be installed on the day of the open house and removed immediately following the event. [Amended 5-7-2002 by Ord. No. 129-L-02]

(3) Political signs, provided that each does not exceed eight square feet in area and are removed within seven days after the date of the election or referendum.

(4) Signs erected by a United States Internal Revenue Service recognized nonprofit or charitable entity recognized by the Zoning Officer denoting a special event, provided that they are erected no more than 15 days before the event and removed within seven days after the event and do not exceed 32 square feet in sign area.

(5) Noncommercial signs and decorations for an official or religious holiday, provided that they do not create traffic or fire hazards and are removed within seven days following the event. Such sign shall not exceed 32 square feet.

(6) Signs announcing work actively being performed on the premises by contractors, mechanics, painters, artisans, etc., not to exceed eight square feet, provided that they are removed within seven days after such work is no longer actively and continuously being pursued, except such signs may be a maximum of 32 square feet if the construction cost is over \$1,000,000.

(7) Signs advertising the temporary sale of products or goods such as Christmas trees, provided that such signs shall not exceed a total sign area on each of two sides of 12 square feet, are only posted for a maximum of 30 days and are removed within three days after the completion of sales.

J. Exempt signs. The following type of signs (as defined in § 240-6) are exempt from zoning permit requirements, within the following requirements:

(1) Official signs.

(2) Name plate signs not to exceed two square feet.

(3) Identification signs not to exceed two square feet.

(4) Directional signs not to exceed four square feet.

(5) Memorial or historic markers when approved by motion or resolution of the Board of Supervisors.

(6) Public service signs, such as those advertising availability of rest rooms, telephone, meeting times of service organizations or other similar public conveniences. Not to exceed two square feet.

(7) Temporary signs as provided in Subsection I.

(8) Trespassing signs or signs, indicating the private nature of a road, driveway or premise, and signs prohibiting or controlling hunting and fishing upon the premises, not to exceed two square feet.

1 K. Signs prohibited in all districts. The following signs are prohibited in all zoning districts:

2 (1) Banners, spinners, flags, pennants or any moving object used for commercial advertising
3 purpose whether containing a message or not, except as permitted under Subsection A(2), and except
4 banners or flags meeting the requirements for a permitted type of sign.

5 (2) Flashing, blinking, twinkling, animated or moving signs of any type, except those portions of the
6 sign which indicate time and temperature, and except flashing signs shall be permitted in the C-1
7 District.

8 (3) Signs placed, inscribed or supported upon the roof or upon any structure which extends above
9 the eave of the roof of any building.

10 (4) Signs on mobile stands which can be moved from place to place.

11 (5) Signs which emit smoke, visible vapors or particles, sound or odor.

12 (6) Signs which contain information that states or implies that a property may be used for any
13 purpose not permitted under the provisions of this chapter in the zoning district in which the property
14 to which the sign relates is located.

15 (7) Signs that are of such character, form, shape or color that it imitates or resembles any official
16 traffic sign, signal or device, or that has any characteristics which are likely to confuse or distract the
17 operator of a motor vehicle on a public street.

18 (8) Signs that outline the rooflines, doors, windows or wall edges by illuminated tubing or strings of
19 lights for advertising purposes.

20 (9) Signs or displays visible from a street, sidewalk or another property that include words or
21 images that are obscene, pornographic or that an average reasonable person would find highly offensive
22 to public decency.

23 (10) Off-premises signs (as defined in § 240-6) shall be prohibited in the Township, except for official
24 signs or as specifically permitted in the C-1 and I-2 Districts. [Amended 2-5-2002 by Ord. No. 129-G-2]

25 L. Signs and/or structures denoting the name of a subdivision.

26 (1) Signs that are freestanding or attached to walls or fences constructed of weather-resistant wood
27 or decorative masonry designating the name of a subdivision and any accompanying logo may be
28 erected at each entrance of a subdivision. The location of all such structures or signs shall be approved
29 by the Township during the subdivision process and shall not contain any advertising except the name of
30 the subdivision. A maximum of two sign faces shall be permitted, each of which shall have a maximum
31 sign area of 50 square feet.

32 (2) The applicant shall prove that there will be a long-term system to ensure proper maintenance of
33 the sign and any accompanying landscaping and that the sign will be durably constructed as to require

1 minimal maintenance. The Zoning Officer shall issue a zoning permit upon the recommendation of the
2 Planning Commission.

3 (3) These signs shall only be permitted for use in conjunction with a subdivision and shall not be
4 permitted for use in conjunction with a land development.

5 L.1. Off-premises signs and structures denoting the uses in the I-2 District. [Added 2-5-2002 by Ord.
6 No. 129-G-2; amended 2-22-2005 by Ord. No. 129-A-05]

7 (1) An off-premises, directly illuminated freestanding sign may be erected at the Paoli Pike entrance
8 to the uses. The location of such sign, the materials, the method of lighting, and the content of the sign
9 shall be approved by the Board of Supervisors during the subdivision/land development process. The
10 sign shall have a maximum sign area of 20 square feet and a maximum height of five feet. The Zoning
11 Officer shall issue a zoning permit upon the recommendation of the Planning Commission and approval
12 of the Board of Supervisors.

13 (2) The applicant shall prove by a preponderance of evidence that there will be a long-term system
14 to ensure proper maintenance of the sign and any accompanying landscaping.

15 M. Area of signs. The following regulations shall be used in computing the area of signs:

16 (1) The area of a sign shall be construed to include all lettering, wording and accompanying designs
17 and symbols, together with the background, whether open or enclosed, on which they are displayed,
18 but not including any supporting framework and bracing which are incidental to the display itself.

19 (2) Where the sign consists of individual letters or symbols attached to or painted on a surface,
20 building, wall or window, the area shall be considered to be that of the smallest rectangle or triangle,
21 including the sign background, which encompasses all of the letters and symbols.

22 (3) In computing square foot area of a double-face sign, only one side shall be considered, provided
23 that both faces are identical in size. If the interior angle formed by the two faces of the double-faced
24 sign is greater than 45°, then both sides of such sign shall be considered in calculating the sign area.

25 (4) Unless otherwise specified, all square footages are maximum sizes.

26 N. Height of signs. No sign shall exceed the maximum height restriction for the particular type of
27 sign structure and zoning district established below: [Amended 2-5-2002 by Ord. No. 129-G-2]

Maximum Height*

| Type os sign structure | Residential Districts | Commercial Districts | Industrial and Business Park Districts |
|-------------------------------|------------------------------|-----------------------------|-----------------------------------------------|
| Freestanding | 6 | 14 | 6 |
| Wall | 10 | 14 | 10** |

**Maximum height" shall mean the vertical distance measured from the average ground level immediately below a sign to the highest point of the sign and its supporting structure.

**Wall signs on office buildings in the I-2 District may have a maximum height of 41 feet.

O. Signs permitted in residential districts.

(1) Only the following types of signs are permitted in residential districts:

(a) Exempt signs as provided in Subsection J.

(b) Temporary signs as provided in Subsection I.

(c) Subdivision signs as provided in Subsection L.

(d) The following signs are permitted for those uses permitted in residential districts by conditional uses or special exception:

[1] A wall sign not to exceed 20% of the wall-signable area or 32 square feet, whichever is less, and permitted on the front wall of the structure only.

[2] A freestanding sign not to exceed 32 square feet in area. Such sign shall not be internally illuminated. No more than one freestanding sign per road frontage.

[3] A nonilluminated window sign not to exceed 20% of window area to which it is attached.

(2) Any of the above signs that are to be associated with a proposed conditional or special exception use shall be reviewed and either be approved or denied at the same time that the conditional or special exception use is being reviewed.

(3) Signs relating to convenience commercial facilities when permitted in an apartment development in accordance with the following regulations: [Amended 11-16-1999 by Ord. No. 129-J-99]

(a) Wall sign. One shall be permitted for each establishment and shall be attached only to either the front wall, front advertising band or under the eave of the front of the main roof of the individual establishment. The top of the sign shall not be as high as the roof eave and the bottom of the sign shall be at least six feet and eight inches above the nearest finished walkway. (A parking area shall not be

considered a walkway). Such sign shall not exceed two feet in height or be longer than 75% of the linear length of the individual commercial establishment. The maximum size of any such sign shall not exceed 24 square feet.

[1] All newly placed wall signs attached to the same building.

[a] Shall be generally consistent in proportion and format with existing signs so that consistency of signs is achieved.

[b] Shall not be box-type signs if at least 75% of the existing signs in the convenience center are not box-type signs. A "box-type" sign is a closed box with one or two faces being illuminated from within.

[c] Shall maintain common vertical and horizontal lines with other signs in a manner consistent with the architecture of the building.

[d] Should be generally consistent in materials, font style and type size with other signs attached to the same building.

[e] May be directly or indirectly illuminated.

(b) Freestanding sign. One freestanding sign shall be permitted for the convenience commercial facility. The sign shall not exceed 20 square feet in area and shall have an overall height not exceeding eight feet. Such signs may identify the names or businesses of the occupants of the convenience commercial facility.

(c) Window sign. A nonilluminated window sign not to exceed 20% of the window area to which it is attached.

(d) Design. All signs on the structures shall be of the same design, shall be lit in a similar manner and shall be architecturally compatible with the structure.

(e) Wall sign alternative. In lieu of the wall sign authorized by § 240-220(3)(a), each establishment in the building shall be permitted to erect one freestanding sign in accordance with the following requirements:

[1] Each freestanding sign shall have a maximum size of 10 square feet and a maximum height of 10 feet.

[2] Each freestanding sign shall be located immediately in front of its respective establishment.

[3] All portions of the freestanding sign shall be located no more than 10 feet from the respective establishment.

[4] Each freestanding sign shall comply with all front, rear and side yard requirements, and each such sign shall comply with the setback requirements for the zoning district in which the property is located.

1 (4) See also Subsection F regarding illumination of signs in a residential district.

2 P. Signs permitted in commercial districts. Only the following types of signs are permitted in a
3 commercial district:

4 (1) Exempt signs as provided in Subsection J.

5 (2) Temporary signs as provided in Subsection I.

6 (3) Signs relating to a principal use on a lot, including a maximum of one commercial establishment
7 in accordance with the following regulations:

8 (a) Wall sign. One shall be permitted for each establishment. Such sign shall not exceed two square
9 feet in area for each linear foot of wall-signable area, but not exceed 60 square feet.

10 (b) A freestanding sign not to exceed 10 square feet in area. No more than one freestanding sign
11 shall be permitted on each street frontage.

12 (c) A window sign not to exceed 20% of window area to which it is attached.

13 (4) Signs relating to a principal use on a lot, including more than one commercial establishment are
14 permitted in accordance with the following regulations:

15 (a) Wall sign. One shall be permitted for each establishment. Such sign shall not exceed two feet in
16 height or be longer than 75% of the linear length of the individual commercial establishment, with a
17 maximum size of 32 square feet.

18 [1] All newly placed wall signs attached to the same building:

19 [a] Shall be generally consistent in proportion with existing signs.

20 [b] Shall not be box-type signs if at least 75% of the existing signs are not box-type signs.

21 [c] Shall maintain common vertical and horizontal lines with other signs in a manner consistent with
22 the architecture of the building.

23 [d] Should be generally consistent in materials, font style and type size with other signs attached to
24 the same building.

25 [2] An applicant for construction of a new principal building intended to include more than one
26 establishment is strongly encouraged to submit a proposed set of standards that the building owner
27 intends to use to control the types and colors of signs to ensure compatibility among the signs.

28 [3] See Subsection K which prohibits certain types of signs, such as flashing and above-the-roofline
29 signs.

1 [4] Wall sign alternative. In lieu of the wall sign referred to in Subsection P(4)(a), each
2 establishment in the structure shall be permitted to erect one freestanding sign in accordance with the
3 following requirements:

4 [a] Each freestanding sign shall have a maximum size of 10 square feet and a maximum height of 10
5 feet.

6 [b] Each freestanding sign shall be located immediately in front of its respective establishment.

7 [c] All portions of the freestanding sign shall be located no more than 10 feet from the respective
8 establishment.

9 [d] The freestanding signs shall comply with all front, rear and side yard requirements and they shall
10 comply with the setback requirements for the zoning district.

11 (b) A freestanding sign shall not exceed 10 square feet in area nor five feet in height. No more than
12 one freestanding sign shall be permitted on each street frontage.

13 (c) Window signs. The cumulative size of window signs is not to exceed 20% of the window area to
14 which it or they are attached. Such signs may contain the names or businesses of the occupants of the
15 facilities.

16 (d) All signs on the structure shall be of the same design and lit in a similar manner and shall be
17 architecturally compatible with the structure.

18 (5) Sign bonus. Each permitted 10 square feet maximum freestanding sign in a commercial district
19 may be increased in size to a maximum of 20 square feet if the sign is not internally illuminated and is
20 constructed of relief-cut wood (other than plywood).

21 (6) Off-premises signs. In addition to other permitted signs, a lot in the C-1 District may include one
22 off-premises sign (as defined in § 240-6) if the sign meets the following requirements:

23 (a) The sign shall include a maximum of one sign face, which shall not exceed a maximum of 50
24 square feet of sign area.

25 (b) The sign shall be set back a minimum of 200 feet from any other existing or previously approved
26 off-premises sign.

27 (c) The sign shall be set back a minimum of 100 square feet from the lot line of a primarily
28 residential use, except the setback shall be increased to 200 feet if the illumination of the sign would be
29 visible from an existing dwelling.

30 (d) Such sign shall have a maximum total height of 14 feet.

31 (7) Any sign (as defined in § 240-6, which includes but is not limited to graphics and logos) attached
32 to or incorporated into functional elements of a building or development (including but not limited to
33 awnings, canopies or murals) that serve an advertising or use identification purpose shall be considered

1 to be a sign, and specifically shall be regulated by all provisions of this section for the applicable zoning
2 district.

3 Q. Signs permitted in industrial and business park districts. Only the following types of signs are
4 permitted in the industrial and business park districts: [Amended 2-5-2002 by Ord. No. 129-G-2]

5 (1) Exempt signs as provided in Subsection J.

6 (2) Temporary signs as provided in Subsection I.

7 (3) Subdivision signs as provided in Subsection L.

8 (4) Land development signs as provided in Subsection L.1.

9 (5) Wall sign. One shall be permitted for each establishment. Such sign shall not exceed two square
10 feet for each linear foot of wall area (where a sign could be located) or 100 square feet, whichever is
11 more restrictive, and shall be permitted only on the front wall of the structure. In the I-2 District each
12 office building shall be permitted one sign, which shall not exceed 40 square feet.

13 (6) Freestanding sign. One sign along each street frontage, each of which shall not exceed 20 square
14 feet in sign area.

15 (7) Freestanding signs in the I-2 District for an office use. [Amended 2-22-2005 by Ord. No. 129-A-
16 05]

17 (a) A maximum of one freestanding, directly illuminated sign that is located on the lot that contains
18 the office use shall be permitted for an office use in the I-2 District. The sign shall not exceed 13 square
19 feet in area and four feet in height. The Zoning Officer shall issue a zoning permit for the sign upon the
20 recommendation of the Planning Commission and approval of the Board of Supervisors.

21 (b) Off-site freestanding signs whose primary purpose is to direct persons to various uses in the I-2
22 Zoning District may be installed by the Township in the I-2 Zoning District. These signs shall be
23 considered "official signs" as defined by this chapter.

24 (8) Freestanding signs in the I-2 District for National Register of Historic Places eligible buildings. A
25 maximum of two freestanding, off-premises, directly illuminated signs shall be permitted. Each sign shall
26 not exceed 24 square feet in area and five feet in height. If more than one such sign is installed, lettering
27 and symbols shall be restricted to one side only of each sign. The applicant shall prove by a
28 preponderance of evidence that there will be a long-term system to ensure proper maintenance of the
29 sign and any accompanying landscaping. The Zoning Officer shall issue a zoning permit for the signs
30 upon approval of the Board of Supervisors.

31 (9) Off premises freestanding signs in accordance with § 240-22L.1. [Added 2-22-2005 by Ord. No.
32 129-A-05]

1 R. Approval of signs associated with proposed conditional uses and special exception uses. Any of
2 the signs in Subsections O through and including Q that are to be associated with a proposed conditional
3 or special exception use shall be reviewed and either be approved or denied at the same time that the
4 conditional or special exception use is being reviewed.

5 S. Display of street address numbers.

6 (1) Assignment of street address numbers.

7 (a) Street address numbers shall be assigned by the Township Manager or his/her designee to each
8 lot, each dwelling unit and each commercial or business establishment when there is more than one
9 such establishment on a lot.

10 (b) The Township Manager or his/her designee shall have the power to correct any errors with
11 respect to the assignment of street address numbers, as and when such errors are discovered, and shall
12 have the power to change and redesignate a street address number or numbers assigned to any lot,
13 dwelling unit and commercial or business establishment when there is more than one such
14 establishment on a lot and when it is deemed that such change or redesignation is necessary or
15 desirable in order to provide street address numbers appropriate for the purposes of uniquely
16 identifying each such lot, dwelling unit and commercial or business establishment and for reducing the
17 time, effort and potential confusion necessitated by such identification.

18 (2) Application for street address number. The owner or occupant of a lot, dwelling unit and
19 commercial or business establishment when there is more than one such establishment on a lot, to
20 which no street address number has been previously assigned or designated or to which a duplicative
21 number has been assigned or designated shall, prior to occupancy thereof, make application to the
22 Township Manager or his/her designee for assignment of such street address number which, upon
23 designation, shall be the street address number of the property.

24 (3) Specifications for street address number posting. The owner or occupant of each lot, each
25 dwelling unit or each commercial or business establishment when there is more than one such
26 establishment on a lot within the Township shall post the designated street address number on said lot,
27 dwelling unit and commercial or business establishment in strict compliance with the following
28 specifications and regulations:

29 (a) The street address numbers shall be Arabic in design and shall be constructed of a permanent
30 and weatherproof material or possessing a permanent and weatherproof coating.

31 (b) Each digit constituting the posted street address number shall be not less than three inches in
32 height.

33 (c) If the lot is improved with a building or buildings, the digits constituting the posted street
34 address number shall be secured and permanently mounted to the principal building's element (e.g.,
35 front wall or porch) most proximate to the public or private vehicular accessway providing principal
36 access to said building.

(d) Each digit constituting the posted street address number shall be mounted at a height not less than four feet nor greater than 10 feet above the grade or elevation of the adjoining principal vehicular accessway.

(e) Each digit of the posted street address number together with the structure or building element to which they are affixed shall be so designed with regard to contrasting background, arrangement, spacing, size and uniformity of digits so as to be readily legible and visible during daylight hours or when illuminated by a source of artificial light by a person possessing normal vision.

(f) Each digit of the posted street address number shall be so located so as to avoid all visual obstruction, including trees, shrubs and any other temporary or permanent structure or fixture.

(g) If the lot has a mailbox located within the street right-of-way, the digits constituting the posted street address number shall also be permanently mounted, painted or otherwise affixed on both sides to either the mailbox or the mailbox post.

(h) If the lot does not have a mailbox located within the right-of-way but does have a freestanding sign, the street address shall be placed on the freestanding sign. If the lot does not have a mailbox located within the right-of-way or have a freestanding sign, the street address shall be placed on a small freestanding sign which is located by the main entrance to the property. This freestanding sign shall not be larger than two square feet in size and not more than three feet in height.

T. Bus shelter signs. A bus shelter permitted by § 240-37 may include a single off-premises sign, which shall have a maximum of two sign faces. Such sign shall have a maximum sign area of 24 square feet on each of the two sign faces. In addition, such sign may include a sign of up to four square feet identifying the agency providing public transit service.

U. Historic wall signs. One historic wall sign shall be permitted on properties listed on the East Goshen Township Historic Resource Inventory for those uses permitted pursuant to § 240-38.5A. The sign shall be reviewed and approved by the Board of Supervisors contemporaneously with the use. [Added 5-4-2004 by Ord. No. 129-D-04]

(1) The sign shall be a maximum size of six square feet on each of no more than two faces.

(2) The sign shall project no more than four feet from the face of the building.

(3) The top of the sign shall not exceed:

(a) One-story building: the eave height.

(b) Two- or three-story building: the height of the second floor windowsill.

(4) The sign may be directly illuminated by a maximum of two seventy-five-watt bulbs (one for each side).

(5) The sign, and related illumination, shall adhere to the standards of §§ 240-22 and 240-24H.

Summary Sign Chart 1

Maximum Size per Type of Sign

| Sign Type | Residential Districts | Residential Districts , Local Shopping facilities in Apt. dev. | Commercial Districts, Individual structure on a single lot | Commercial Districts, Structure with more than one establishment | Commercial Districts, off premises | Industrial and Business Park Districts |
|---------------|-----------------------------------|----------------------------------------------------------------|----------------------------------------------------------------------------|------------------------------------------------------------------|------------------------------------|----------------------------------------------------------------------------|
| Wall | 20% of signable area or 32 sq.ft. | 4 sq. ft. | 2 sq. ft. of area per linear ft. of wall signable area (60 sq.ft. maximum) | 32 sq. ft. | 100 sq.ft. | 2 sq.ft. in area per linear ft. of wall signable area(100 sq. ft. maximum) |
| Free standing | 32 sq.ft. | 20 sq. ft. (8 ft. high) | 10 sq. ft. | 10 sq. ft. (5 ft. high) | 20 sq. ft. | 20 sq. ft. |
| Window | 20% of window area | 20% of window area | 20% of window area | 20% of window area | n/a | n/a |

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3 This is a summary table for general overview purposes only. This table is not part of this chapter. Please
4 see the actual chapter text.

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Summary Sign Chart 2

Maximum Size per Type of Sign

(Allowed in All Districts)

| Sign Type | Maximum Size Menu Boards, Bills of Fare or Price Lists (square feet) |
|-------------------------------------------|----------------------------------------------------------------------|
| Menu Boards, Bills of Fare or price lists | 3 (restaurants only) |

| Sign Type | Maximum Size Temporary Signs (square feet) |
|-------------------------|-------------------------------------------------------|
| Yard/garage sales | 4 |
| Sale/rental of property | 8 |

| Sign Type | Maximum Size Temporary Signs (square feet) |
|------------------|-------------------------------------------------------|
| Political | 8 |
| IRS/Charity | 32 |
| Work-related | 30 (If const. cost exceeds \$1,000,000) |

| Sign Type | Maximum Size Exempt Signs (square feet) |
|------------------|----------------------------------------------------|
| Name Plate | 2 |
| Identification | 2 |
| Directional | 4 |
| Public Service | 2 |
| Trespassing | 2 |

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2 This is a summary table for general overview purposes only. This table is not part of this chapter. Please
3 see the actual chapter text.

FYI

ORDINANCE NO. 2059

AN ORDINANCE OF THE BURGESS AND TOWN COUNCIL OF THE BOROUGH OF POTTSTOWN AMENDING VARIOUS SECTIONS OF ARTICLE 7, SIGNS, OF CHAPTER 27, ZONING, OF THE CODE OF ORDINANCES OF THE BOROUGH OF POTTSTOWN, AS AMENDED, TO PERMIT ELECTRONIC MESSAGE SIGNS IN THE HEAVY MANUFACTURING DISTRICT, SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, the Burgess and Town Council of the Borough of Pottstown has adopted a comprehensive Zoning Ordinance to preserve and enhance the character of the Borough and promote the general welfare of its residents; and

WHEREAS, Borough Council and the Borough Planning Commission periodically review the Zoning Ordinance to determine if revisions are warranted; and

WHEREAS, advances in sign technology have increased the availability of electronic signs for commercial purposes; and

WHEREAS, Borough Council believes that regulations are appropriate for electronic signs to permit their use in certain Districts to allow business owners to take advantage of LED signs while attempting to protect and ensure the value of neighboring properties and preserve the integrity of other Zoning Districts within the Borough.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Burgess and Town Council of the Borough of Pottstown, Montgomery County, Pennsylvania, and IT IS HEREBY ENACTED AND ORDAINED by the authority of same as follows:

SECTION 1. Section 702, Definitions, of Article 7, Signs, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to establish definitions for the terms "Electronic Display Screen" and "Electronic Message Center" as follows, and to include with the definitions the graphic attached hereto as Exhibit "A":

§702. Definitions.

Electronic Display Screen - a sign, or a portion of a sign, that displays an electronic image or video, which may or may not include text. Electronic display screens include television screens, plasma screens, digital screens, flat screens, LED screens, video boards, holographic displays, or other technologies of a similar nature.

Electronic Message Center - any sign or portion of a sign that uses changing lights to form a sign message or messages in text form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

SECTION 2. The subsection titled "Signs as Defined by Form: The Physical Structure of the Sign", of Section 702, Definitions, of Article 7, Signs, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to delete the terms "Animated Sign" and "Flashing Sign" and

to establish the following definition for the term "Electronic Sign":

§702. Definitions.

Sign as Defined by Form: The Physical Structure of the Sign

Electronic Sign - a sign capable of displaying text, graphics, video, symbols, or images that can be electronically or mechanically changed by remote or automatic means, and which directs attention to a business, activity, product, commodity, service, entertainment, or communication, which may or may not contain an electronic display screen or an electronic message center. The following shall not be considered to be electronic signs:

(a) signs utilized by the police department, other law enforcement personnel and/or emergency service providers;

(b) signs that indicate only the date, time and/or temperature, provided that the remainder of the sign remains static at all times;

(c) score boards for athletic events (indoor and outdoor) provided the use of the score board is limited to only the time the athletic event is occurring.

SECTION 3. A new Subsection 8, Electronic Signs, is hereby created and added to Section 703, General Regulations, of Article 7, Signs, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, and shall provide as follows:

§703. General Regulations.

8. Electronic Signs

A. **Purpose:** The purpose of this Section is to regulate the use of electronic signs within the Borough to minimize the impact of such signs that may distract drivers and be detrimental to neighboring properties, and to limit the aesthetic impact that

a proliferation of electronic signs could have on Borough properties.

B. Where permitted, all electronic signs shall comply with the following requirements:

1. Message Display

a. Each message displayed on an electronic sign must be static or depicted for a minimum of one (1) minute and the screen must completely fade-out before a new message is displayed.

b. Where text is displayed on a background, the text shall be brighter than the background, i.e., dark text shall not be displayed on a bright background.

c. Each complete message must fit onto one (1) screen, i.e., no scrolling or incomplete messages permitted.

d. Electronic signs may not contain animation or any flashing, scrolling, or moving lights, text or graphics, or any type of video.

2. Illumination. Lighting from the sign must not exceed an intensity of 0.5 footcandles of light at the property line, as measured with a portable hand-held light sensor.

3. Hours of Operation. Electronic signs shall not be illuminated more than one half hour before which the premises is open to the public or more than one half hour after which the premises is closed to the public, or 10:00 p.m., whichever is later, with the exception of public service announcements.

4. Content. The display of electronic signs may only be used to advertise goods and services sold on the premises, time and temperature, and public service announcements. The owner of the sign must register with Amber Alert, and shall be required to display all Amber Alert messages.

5. The addition of any electronic sign to any nonconforming sign is prohibited.
6. No more than one (1) electronic sign is permitted per premises, regardless of number of signs permitted or the number of uses.
7. Electronic signs shall comply with other applicable sign regulations.

SECTION 4. Section 704, Prohibited Signs, of Article 7, Signs, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended to delete subsection 7, Animated Signs, and revise subsection 14 as follows:

§704. Prohibited signs.

12. Flashing signs, with the exception of the time and temperature portion of a sign or an electronic display screen or electronic message center, where permitted. Beacon lights.

SECTION 5. Section 712, Sign Uses and Restrictions, of Article 7, Signs, of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, is hereby amended and shall provide as follows:

§712. Sign Uses and restrictions.

| Zone | Use of Premises | Purpose | Form | Restrictions and Guidelines |
|---------------------|--------------------|-----------------|-----------------|-----------------------------------------------------------------------|
| Heavy Manufacturing | All permitted uses | General Purpose | Electronic Sign | 1 sign per premises Maximum area: 40% of total permitted sign area |
| D-Downtown | Theater | Marquee | Electronic | Maximum area: 50 square feet |

SECTION 6. In all other respects, the remaining provisions of Chapter 27, Zoning, of the Code of Ordinances of the Borough of Pottstown, as amended, to the extent not inconsistent herewith, are hereby reenacted and reordained.

SECTION 7. Severability. If any sentence, clause, section or other part of this ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not effect or impair any remaining provisions, sentences, clauses, sections or other parts of this ordinance. It is hereby declared as the intent of the Burgess and Town Council of the Borough of Pottstown that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

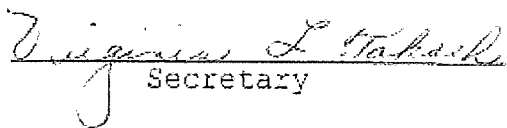
SECTION 8. Effective Date. This ordinance shall become effective immediately upon enactment.

ENACTED and ORDAINED this 9TH day of MARCH, 2009.

THE BURGESS AND TOWN COUNCIL
OF THE BOROUGH OF POTTSTOWN

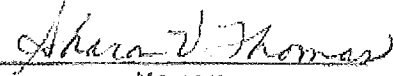
BY: 

President

ATTEST: 

Secretary

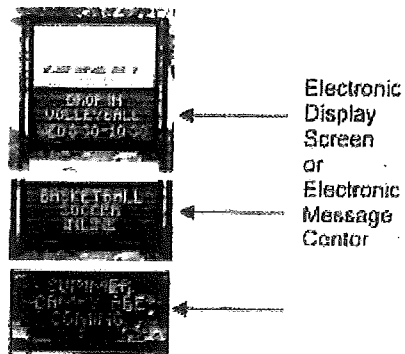
Approved this 9th day
of MARCH, A.D., 2009.


Mayor

Electronic Display Screen or

Electronic Message Center – A sign, or portion of a sign, that displays an electronic image or video, which may or may not include text. This definition includes television screens, plasma screens, digital screens, flat screens, LED screens, video boards, or other technologies of a similar nature. Also, any sign or portion of a sign that uses changing lights to form a sign message or messages in text form wherein a sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

Limited to Heavy Manufacturing District



FYI

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➔ ISSUE NUMBER FOUR

PRACTICE SMART SIGN CODES



Looking Ahead: Regulating Digital Signs and Billboards

By Marya Morris, AICP

Cities and counties have always been challenged to keep their sign ordinances updated to address the latest in sign types and technologies.

Each new sign type that has come into use—for example, backlit awnings and electronic message centers—has prompted cities to amend their regulations in response to or in anticipation of an application to install such a sign.

The advent in the last several years of signs using digital video displays represents the latest, and perhaps the most compelling, challenge to cities trying to keep pace with signage technology. More so than any other type of sign technology that has come into use in the last 40 to 50 years, digital video displays on both off-premise (i.e., billboards) and on-premise signs raise very significant traffic safety considerations.

This issue of *Zoning Practice* covers current trends in the use of digital technology on off-premise billboards and on-premise signs. It recaps the latest research on the effects of

this type of changeable signage on traffic safety. It also discusses the use of digital video sign technology as a component of on-premise signs, including a list of ordinance provisions that municipalities should consider if they are going to permit this type of sign to be used. I use the phrase digital display or video display, but these devices are also referred to as LEDs or, collectively, as “dynamic signs.”

BRIGHT BILLBOARDS

While digital technology is growing in use for on-premise signs, it is the proliferation of digital billboards that has triggered cities and counties to revise their sign ordinances to address this new type of display. Of the approximately half-million billboards currently lining U.S. roadways, only about 500 of them are digital. However, the industry's trade

group, the Outdoor Advertising Association of America, expects that number to grow by several hundred each year in the coming years. In 2008, digital billboards represent for the sign industry what the Comstock Lode must have represented for silver miners in 1858—seemingly limitless riches. The technology allows companies to rent a single billboard—or pole—to multiple advertisers. A billboard company in San Antonio, for example, estimated that annual revenue from one billboard that had been converted from a static image to a changeable digital image would increase tenfold, from \$300,000 to \$3 million just one year after it went digital.

It is very difficult for cities and counties to get billboards removed once they are in place. Billboard companies have made a concerted effort to get state legislation passed that limits or precludes the ability of local

⊕ A typology of moving-image signs. The variable message sign at the right uses a motor to switch among three different static images. Next, the electronic messageboard at Wrigley Field in Chicago displays scrolling text and simple images. The on-premise digital sign, pictured third from left, looks like a giant television screen, displaying a steady stream of video images. On the far right, this digital billboard cycles through a number of static video images at regularly timed intervals.



ASK THE AUTHOR JOIN US ONLINE!

Go online from May 12 to 23 to participate in our "Ask the Author" forum, an interactive feature of Zoning Practice. Marya Morris, AICP, will be available to answer questions about this article. Go to the APA website at www.planning.org and follow the links to the Ask the Author section. From there, just submit your questions about the article using the e-mail link. The author will reply, and Zoning Practice will post the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of Zoning Practice at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA Zoning Practice web pages.

About the Author

Marya Morris is a senior associate at Duncan Associates, a planning consulting firm specializing in land development regulations and infrastructure finance. www.duncanassociates.com

governments to require removal of existing billboards through amortization. The only option left is paying cash compensation. The federal Highway Beautification Act, which was modified many years ago under industry pressure, also prohibits amortization and requires cash compensation for billboard removal.

With the amortization option unavailable, some cities and counties have struck deals with billboard companies requiring them to remove two boards for every new one they install. Other jurisdictions have established simple no-net-increase policies. Although many communities have had success with these approaches, in the

last few years the industry has devised a litigious tactic to secure new billboard permits. Billboard companies challenge the constitutionality of a sign provision, and when the ordinance is in legal limbo, they rush in to secure billboard permits.

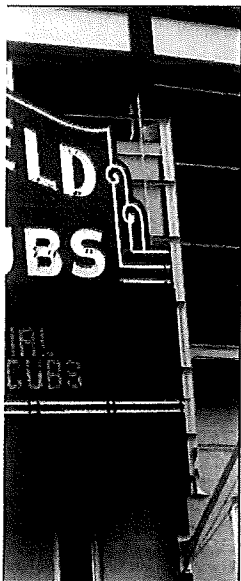
The American Planning Association has joined Scenic America, the International Municipal Lawyers Association, and others in filing amicus curiae briefs in many of these cases to show the courts the industry's pattern of conduct and deliberate strategy to circumvent local sign codes. A review in January 2006 found 113 such "shakedown" sign cases filed in the federal

courts since 1997, and eight filed in state courts in the same time period. For more information visit the APA Amicus Curiae webpage at www.planning.org/amicusbriefs.

The emergence of the highly lucrative digital billboards has also, however, given local governments some leverage to at least reduce the total number of billboards. Many of the applications cities are seeing for the video billboards are requests by companies to replace the static type with the new video displays in key locations. The added revenue potential from a digital format has proved to be enough of an incentive to get companies to agree to remove multiple static billboards in exchange for permits to install video display in certain locations.

In June 2007, Minnetonka, Minnesota, in the Twin Cities area, reached a settlement with Clear Channel in which the company agreed to

The emergence of the highly lucrative digital billboards has given local governments some leverage to at least reduce the total number of billboards.



Photos by David Morley

remove 15 of the 30 conventional static image billboards in the city in exchange for permission to install its digital billboards. The city will permit the company to install no more than eight dynamic signs at four to six locations.

The City of San Antonio amended its sign and billboard ordinance in December 2007 to require the removal of up to four static billboards in exchange for permission to install one digital display billboard in their place. Prior to that amendment the city had no provisions for digital sign technology, but it did already have a two-for-one replacement requirement. The city has a developed a sliding scale that determines the number of billboards required to be removed in exchange for a single digital billboard. According to the scale, the number of digital signs permitted is determined by the total square footage of static billboard faces removed. Therefore, a billboard company will be required to demolish as few as three and as many as 19 billboards to get one new digital billboard structure placed or an existing static billboard face replaced.

IT DEPENDS ON YOUR DEFINITION OF 'DISTRACTING'

Digital signs are brighter and more distracting than any other type of sign. Other attention-grabbers, like strobe lights, mirrors, searchlights, and signs with moving parts, are typically prohibited (or allowed under very narrow circumstances) by even the most hands-off jurisdictions. The high visual impact of digital signs has prompted highway and traffic safety experts to try to quantify how drivers respond to such distractions. This research, which is summarized below, has been instrumental in helping cities craft new sign ordinances that address the specific characteristics of such signs, including how often the messages or images change, the degree of brightness, and their placement relative to residential areas.

The Federal Highway Administration is currently conducting a study on driver distraction and the safety or impact of new sign technologies on driver attention. The initial phase, which is slated to be completed by June 2008, will identify and evaluate the most significant issues and develop research methods needed to secure definitive results. The FHWA anticipates the second phase of the research study and final report will be completed in the latter part of calendar year 2009. Also, the Transportation Research Board (a branch of the National Science Foundation) has formed a subcommittee to examine research needs on electronic signs.

Recent studies indicate that digital displays with continuous dynamic content are more distracting than other types of moving-image signs. Signs that work well in pedestrian-oriented areas might be inappropriate for busy highways.



David Morley

Until a couple of years ago, one of the only studies on the effects of billboards and traffic safety was a 1980 survey of existing research on the subject prepared for the Federal Highway Administration (Wachtel and Netherton 1980). It did not, however, provide any concrete answers. The study noted "attempts to quantify the impact of roadside advertising on traffic safety

have not yielded conclusive results." The authors found that courts typically rule on the side of disallowing billboards because of the "readily understood logic that a driver cannot be expected to give full attention to his driving tasks when he is reading a billboard."

A 2006 study by the National Highway Traffic Safety Administration that focused primarily on driver distractions inside the car (i.e., phone use, eating, and changing the radio station) concluded that any distraction of more than two seconds is a potential cause of crashes and near crashes.

A 2004 study at the University of Toronto found that drivers make twice as many glances at active (i.e., video signs) than they do at passive (i.e., static) signs. All three of the moving sign types that were studied (video, scrolling text, and trivision) attracted more than twice as many glances as static signs. They also found that the drivers' glances at the active signs were longer in duration; 88 percent of glances were at least 0.75 seconds long. A duration of 0.75 seconds or longer is important because that is the amount of time required for a driver to react to a vehicle that is slowing down ahead. Video and scrolling text signs received the longest average maximum glance duration.

An earlier study also at the University of Toronto that was designed to determine whether video billboards distract drivers' attention from traffic signals found that drivers made roughly the same number of glances at traffic signals and street signs with and without full-motion video

ORDINANCES AND ZONING REPORTS

- ◆ City of Minnetonka, Minnesota. 2007. Staff report to city council recommending adoption of an ordinance regulating digital signs. June 25. Available at www.eminnetonka.com/community_development/planning/show_project.cfm?link_id=Dynamic_Signs_Ordinance&cat_link_id=Planning.
- ◆ City of San Antonio City Code, Chapter 28. Amendment Adding Provisions for Digital Signs. Last revised December 2, 2007. Available at <http://epay.sanantonio.gov/dsddocumentcentral/upload/SIGNsecDRAFT.pdf>.
- ◆ City of Seattle, Land Use Code, Section 23.55.005 Signs, Video Display Methods. Last revised 2004. <http://clerk.ci.seattle.wa.us/~public/clrkhome.htm>.

billboards present. This may be interpreted to mean that while electronic billboards may be distracting, they do not appear to distract drivers from noticing traffic signs. This study also found, that video signs entering the driver's line of sight directly in front of the vehicle (e.g., when the sign is situated at a curve) are very distracting.

A 2005 study by the Texas Transportation Institute of driver comprehension of sign messages that flash or change concluded that such signs are more distracting, less comprehensible, and require more reading time than do static images. While this research did not evaluate advertising-related signs, it does demonstrate that flashing signs require more of the driver's time and attention to comprehend the message. In the case of electronic billboards, this suggests that billboards that flash may require more time and attention to read than static ones.

The City of Seattle commissioned a report in 2001 to examine the relationship between

Sign messages that flash or change are more distracting, less comprehensible, and require more reading time than do static images.

The Seattle study also found that drivers expend about 80 percent of their attention on driving-related tasks, leaving 20 percent of their attention for nonessential tasks, including reading signs. The report recommended the city use a "10-second rule" as the maximum display time for a video message.

APPROACHES TO REGULATING DIGITAL DISPLAY SIGNS

Most cities and counties that have amended their sign ordinances to address the use of digital display on on-premise signs and billboards have done so in response to an application by a sign owner to install a new sign that uses the

ital video display signs while still permitting electronic message centers.

3) A relatively small number of sign ordinances have been amended to allow video display signs under narrowly prescribed circumstances and with numerous conditions.

For jurisdictions that want or need to allow them, the following section explains additional considerations that should be added to a sign ordinance to effectively regulate digital display signs.

Sign type. The ordinance must indicate whether the digital display can be used on off-premise billboards only, on on-premise signs only, or on both sign types.

⊕ Billboards with changeable digital images allow billboard companies to dramatically increase their revenue by renting the same sign face to multiple advertisers.



David Morley

electronic signs with moving/flashing images and driver distraction. The study was conducted by Jerry Wachtel, who in 1980 had conducted the first-ever study on signs and traffic safety for the Federal Highway Administration.

The Seattle report concluded that electronic signs with moving images will distract drivers for longer durations (or intervals) than do electronic signs with no movement. The study also noted that the expanded content of a dynamic sign also contributes to extended distraction from driving. Specifically it found that signs that use two or more frames to tell a story are very distracting because drivers are involuntarily compelled to watch the story through to its conclusion.

technology or in response to a sign owner having replaced an existing sign face with a digital display. Some cities, like Minnetonka, were required by a court settlement with a billboard company to allow the technology. Although regulations for digital signs are still relatively new, we can group the regulatory approaches (or lack thereof) into three general categories:

- 1) Most sign ordinances are still silent on the issue of digital video displays, but almost all do regulate electronic message centers and also prohibit or restrict signs that move, flash, strobe, blink, or contain animation.
- 2) A smaller but growing number of sign ordinances contain a complete prohibition on dig-

Definitions. The definitions section must be updated to include a detailed definition of digital display signage and the sign's functional characteristics that could have an effect on traffic safety and community aesthetics.

Zoning districts. The ordinance should list the districts in which such signs are permitted and where they are prohibited. Such signs are commonly prohibited in neighborhood commercial districts, historic districts, special design districts, and scenic corridors, in close proximity to schools, and in residential districts. On the other end of the spectrum, East Dundee, Illinois, for example, expressly encourages digital video signs in two commercial overlay districts, but only a

RESOURCES

- Beijer, D. and A. Smiley. 2005. "Observed Driver Glance Behavior at Roadside Advertising Signs," *Transportation Research Record*.
- Dudek, C. L. et al. 2005. "Impacts of Using Dynamic Features to Display Messages on Changeable Message Signs," Washington, D.C.: Operations Office of Travel Management: Federal Highway Administration.
- "Dynamic" Signage: Research Related to Driver Distraction and Ordinance Recommendations. Prepared by SRF Consulting Group, Inc. for the City of Minnetonka, Minnesota. June 7, 2007 (www.digitalooh.org/digital/pdf/2007-minnetonka_digital-srf_consulting_report06-08-07.pdf).
- "The Impact of Driver Inattention on Near-Crash/Crash Risk: An Analysis Using the 100-Car Naturalistic Driving Study Data," 2006. National Highway Traffic Safety Administration, U.S. Department of Transportation. April.
- McBride, Sarah. "Seeing the Light: In Billboard War, Digital Signs Spark a Truce," *Wall Street Journal*, February 3, 2007.
- Smiley, A. et al. 2004. "Impact of Video Advertising on Driver Fixation Patterns," *Transportation Research Record*.
- *Unsafe at Any Speed: Billboards in the Digital Age*, 2007. Scenic America Issue Alert 2. Available at www.scenic.org/pdfs/eb.pdf. The Scenic America website has a number of excellent resources for planners and citizens interested in regulating digital signage, including a downloadable PowerPoint presentation, research summaries, and model ordinances.
- Vachtel, J. and R. Natherton. 1980. "Safety and Environmental Design Considerations in the Use of Commercial Electronic Variable-Message Signage," Report No. FHWA-RD-80-051. Washington, D.C.: Federal Highway Administration.

few land uses—new car dealerships, multi-tenant retail centers, and amusement establishments—are permitted to have them.

Placement and orientation. A minimum spacing requirement between signs and residential areas should be considered, as should a provision requiring that the sign face be oriented away from residential areas and other scenic or sensitive areas. The Baker and Wolpert study recommended that dynamic signs be limited or prohibited at intersections, in demanding driving environments, and in places where they obstruct a driver's view. In Seattle, the sign face of on-premise digital signs must not be visible from a street, driveway, or surface parking area, nor may it be visible from a lot that is owned by a different person.

Sign area. For on-premise signage, many ordinances include a limit on the percentage of the sign face that can be used for digital display. Thirty percent is common although in some areas, such as entertainment districts, that proportion may be much higher.

Illumination and brightness. The ordinance should address the legibility and brightness of a sign both during the day and after dark. During the day the issue is reducing or minimizing glare and maintaining contrast between the sign face and the surrounding area. At night the issues are the degree of brightness and its impact on driver distraction and on light trespass into residential areas. In the study for the City of Minnetonka, researchers noted the challenge posed by this aspect of digital signs: "There is no objective definition of excessive brightness because the appropriate level of brightness depends on the environment within which the sign operates."

Message duration and transition. The ordinance must include a minimum duration of time that a single message must be displayed. Typically this is expressed in terms of seconds. The San Antonio billboard ordinance requires each image to remain static for at least eight seconds and that a change of image be accomplished within one second or less.

The city's ordinance requires any portion of the message that uses a video display method to have a minimum duration of two seconds and a maximum duration of five seconds. Further, it requires a 20-second "pause" in which a still image or blank screen is showed following every message that is shown on a video display.

Public service announcements. In exchange for permission to use digital displays, owners of billboards in Minnesota and San

Antonio have agreed to display emergency information such as Amber Alerts and emergency evacuation information. Such a requirement can be included in an ordinance or imposed as a condition of approval.

Whether undertaking a comprehensive revision of a sign ordinance or more limited, strategic amendments to address digital technology, there are other common provisions related to electronic and digital signage that should be revisited as part of the rewrite. At the top of the list would be updating standards for conventional electronic message centers to reflect the latest research regarding driver distraction and message duration. Also, the boilerplate provisions common to so many ordinances that prohibit signs that flash, are animated, or simulate motion should also be rethought. These provisions could conceivably be used to prohibit digital displays without additional regulations. The problem is that these characteristics are very rarely defined in the ordinance and remain open to interpretation. Also, whenever new regulations are being considered for digital billboards, jurisdictions should take the opportunity to draft new provisions to address digital technology for on-premise signs as well. And, finally, any time the sign ordinance goes into the shop for repair—whether to address digital signage or to make broader changes—is a good time to remove or revise any provisions that violate content neutrality rules.



NEWS BRIEFS

SMART GROWTH TAKES A HIT IN MARYLAND

By Lora Lucero, ACP

The *Baltimore Sun* hit the nail on the head when it reported on March 12 "[t]he state's highest court declared that Maryland law does not require local governments to stick to their master plans or growth-management policies in making development decisions."

Trail, et al. v. Terrapin Run, LLC, et al. presented an important question for the court to address: What link is required between the community's adopted plan and the decision by the Zoning Board of Appeals (ZBA) to grant or deny a request for a special exception? In a 4 to 3 vote, the majority concluded that Article 66B, the state planning law, is permissive in nature and plans are only advisory guides, so a strong link between plans and implementation is not required. The court affirmed the county's

The majority concluded that the state planning law is permissive in nature and plans are only advisory guides, so a strong link between plans and implementation is not required.

approval of the special exception and determined that the “in harmony with” traditional standard in applications for special exceptions remains the standard, in the absence of specific legislative language to the contrary. The court’s decision is available at www.planning.org/amicusbriefs/pdf/terrapinrundecision.pdf.

Terrapin Run, LLC, the developer, proposed to build an “active adult” community of 4,300 homes on 935 partially wooded acres in Allegany County, a rural area of mountainous Western Maryland. The land is primarily zoned District “A” (Agricultural, Forestry, and Mining), with a portion located in District “C” (Conservation). In addition to the homes, the developer proposed to build an equestrian center, a community building, and a 125,000-square-foot shopping center.

The residential density is 4.6 units per acre. A planner who testified at trial indicated that the density of the proposed development would approximate that of Kentlands, in Montgomery County. The initial phase of development would use individual septic tanks, but the project would eventually require its own sewage treatment plant. Significantly, the property is not located in one of Maryland’s priority funding areas.

The zoning ordinance divides Allegany County into urban and nonurban areas. “A” and “C” are classified as nonurban zoning districts. The zoning ordinance provides:

“Non-urban districts are designed to accommodate a number of non-urban land uses including agriculture, forestry, mining, extractive industries, wildlife habitat, outdoor recreation, and communication, transmission and transportation services, as well as to protect floodplain areas, steep slope areas, designated wetlands and habitat areas, and Public Supply Watersheds from intense urban development.” Allegany County Code, Chapter 141, Part 4 (Zoning) §141-5(B) (emphasis supplied).

Opponents to the project argued that the ZBA erred when it found that strict conformity with the plan was not required and that the proposed development would be “in harmony with” the Allegany County Comprehensive Plan

because Maryland Code (Article 66, § 1(k)) requires a special exception to be “in conformity with” the plan.

Gov. Martin O’Malley’s administration argued in its amicus brief that counties and municipalities are required to conform to the seven broad “visions” for growth in Maryland as listed below:

§ 1.01. Visions

- (1) Development is concentrated in suitable areas.
- (2) Sensitive areas are protected.
- (3) In rural areas, growth is directed to existing population centers and resource areas are protected.
- (4) Stewardship of the Chesapeake Bay and the land is a universal ethic.
- (5) Conservation of resources, including a reduction in resource consumption, is practiced.
- (6) To assure the achievement of items (1) through (5) of this section, economic growth is encouraged and regulatory mechanisms are streamlined.
- (7) Adequate public facilities and infrastructure under the control of the county or municipal corporation are available or planned in areas where growth is to occur.

APA and its Maryland Chapter jointly filed an amicus-brief. We argued that “[p]lans are documents that describe public policies that the community intends to implement and not simply a rhetorical expression of the community’s desires.” APA’s position is that (1) the adopted comprehensive plan must be implemented; (2) effective implementation requires that the day-to-day decisions made by local officials be consistent with the adopted comprehensive plan; and (3) the court’s review of whether consistency is achieved should be more searching when local officials are acting in their administrative (quasi-judicial) capacity. APA’s amicus brief is available at www.planning.org/amicusbriefs/pdf/terrapinrun.pdf.

The lengthy majority opinion (52 pages) recounts much of Maryland’s legislative history in statutory reforms. “[T]his case, in one sense is a continuation of legislative battles that began in the early 1990s, where representatives of the

environmental protection and professional land planning interests attempted to establish that the State, or State planners, should exercise greater control than theretofore enjoyed over most aspects of land use decision-making that then reposed in the local jurisdictions” (*Trail, et al. v. Terrapin Run, LLC, et al.*, 2008 WL 638691, p.1). The majority concludes that the “in harmony” standard is synonymous with “in conformity.” However, the three dissenting justices said the majority “sets special exception considerations on a lubricious path” (*Trail, et al. v. Terrapin Run, LLC, et al.*, Minority Opinion, p.13). The statutory amendments made by the legislature in 1970, and subsequent case law, buttresses the argument that a stricter linkage is required between the adopted plan and the grant of a special exception, the minority opined.

Richard Hall, Maryland secretary of planning and past president of the Maryland Chapter of APA, said: “We think this is a time when we need more smart, sustainable growth, not less.” The O’Malley administration is going to study the ruling before deciding whether to advance legislation to reverse the court’s decision.

Lora Lucero, ACP, is editor of *Planning & Environmental Law* and staff liaison to APA’s amicus curiae committee.

Cover concept by Lisa Barton.
Photos: Sign © iStockphoto.com/David McShane; Screen © iStockphoto.com/Alexey Khababytov

VOL. 25, NO. 4

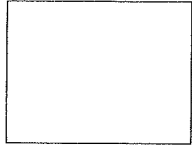
Zoning Practice is a monthly publication of the American Planning Association. Subscriptions are available for \$75 (U.S.) and \$100 (foreign). W. Paul Farmer, FAICP, Executive Director; William R. Klein, AICP, Director of Research.

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IS YOUR COMMUNITY READY
FOR DIGITAL SIGNAGE?

4



Yerkes Associates, Inc.

Consulting Engineers / Site Planners / Land Surveyors

MEMORANDUM

To: Brad Eldred
Michael Conrad, P.E. ✓

From: Tom Kummer, R.L.A.

Date: June 2, 2011

RE: National Bank of Malvern, Existing Tree Concerns

On June 1, 2011 I inspected three existing mature deciduous trees located along the property line between the YMCA (East Goshen Township) and the National Bank of Malvern property. The purpose was to ascertain viability of these trees in light of the ongoing parking lot construction on the bank property. I have included a reference plan with the subject trees labeled A, B & C.

Tree A

This tree appears to be healthy. No disease is evident at the base. Unless the proposed curb line can be amended, the supporting buttress roots on the west side will be removed weakening the structural support of the tree. From a safety standpoint this tree probably should be removed.

Tree B

This tree appears to be quite healthy. There is no base disease in evidence and additionally, there is no significant die-back at the top. As with Tree A, installing the proposed curb will greatly compromise the buttress roots and therefore, the structural integrity of the tree. A small amount of root zone has been retained on the south side. Should the landscape island be relocated adjacent to the tree there is reason to believe that the tree could survive and be structurally sound. From a safety and insurance standpoint I can recommend removal of this tree.

Tree C

This tree is located on the YMCA property immediately adjacent to the previously installed curb. The installation of this curb significantly damaged the buttress roots of the tree. Additionally, disease is evident at the base and the top exhibits widespread die-back which is indicative of a tree in remission. I recommend that this tree be removed.

Our understanding is that tree replacement is required per Township Ordinances. A revised landscape plan should be prepared to show proposed quantities, species and locations.

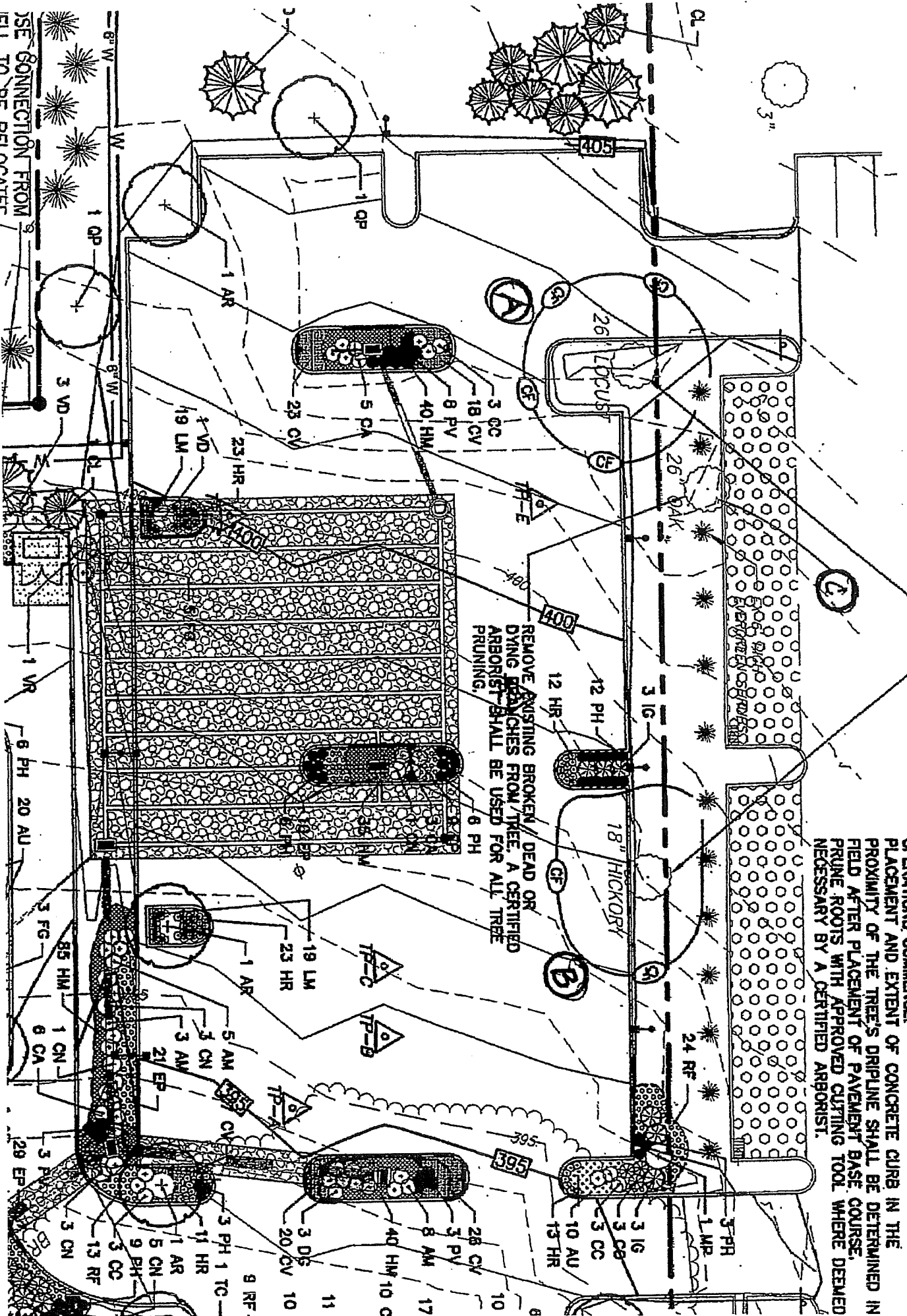
Please feel free to contact me should you need to discuss this matter further.

Attachment: Plan Showing Subject Trees

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REMOVE EXISTING BROKEN DEAD OR
DYING BRANCHES FROM TREE. A CERTIFIED
ARBORIST SHALL BE USED FOR ALL TREE
PRUNING.



BOARD OF SUPERVISORS
EAST GOSHEN TOWNSHIP
CHESTER COUNTY
1580 PAOLI PIKE, WEST CHESTER, PA 19380-6199

June 14, 2011

YMCA of the Brandywine Valley
West Chester Area YMCA
Attn: Bruce Griffin, Executive Director
605 Airport Rd.
West Chester, PA 19380

Re: **T.P.N. 53-3-1.9A / Parking Lot Construction / Tree Removal**

Mr. Griffin,

As you know, at the Y's request, East Goshen Township reviewed and authorized the removal of mature trees totaling 70 inches along the northern side of the new parking lot, which is currently under construction at the above referenced property. As I communicated to Mr. Tim Ryan from the YMCA upon our approval to remove those trees; the Township requires the Y to replant a minimum of 70 inches of trees in addition to the trees and landscaping already approved as part of the land development plan for the above referenced project.

Please provide the Township with an amended Landscape Plan showing where the additional trees will be planted and the species of those trees for review and approval.

Thank you for your cooperation in addressing this issue. Should you have any questions, please contact me.

Sincerely,



Mark A. Gordon
Township Zoning Officer

CC: Mr. Robert Adams, Esq. (Via Email)
Mr. Charles Olivo, P.E. (Via Email)
Mr. Michael Conrad, P.E., Township Engineer (Via Email)
Mr. Tim Ryan, YMCA (Via Email)
East Goshen Board of Supervisors
East Goshen Planning Commission
East Goshen Conservancy Board

BOARD OF SUPERVISORS
EAST GOSHEN TOWNSHIP
CHESTER COUNTY
1580 PAOLI PIKE, WEST CHESTER, PA 19380-6199

June 15, 2011

East Goshen Township Conservancy Board
Attn: Bryan Del Monte, Chairman
1580 Paoli Pike
West Chester, PA 19380

Re: **T.P.N. 53-3-1.9A / Parking Lot Construction / Tree Removal**

Mr. Del Monte,

In response to your email of June 9, 2011 I offer the following:

1. May 24, 2011: The YMCA contacted me due to a concern from the site contractor about the condition of the trees and root systems.
2. The site contractor hired a tree biologist, John A. Keslick, Jr., to assess the health of the trees in the area of the north side of the new parking lot and he recommended that the hickory tree be removed.
3. May 27, 2011: I visited the site to look at the tree and found three trees that appeared to have root system damaged due to the parking lot construction from the previous development of the YMCA and were even more compromised by the new parking lot construction.
4. I directed the Township Engineer to look at the trees and to offer their professional opinion on the health of the trees.
5. May 31, 2011: I met with Mr. Tim Ryan from the Y to look at the trees and both of us agreed that there were three trees that posed safety concerns.
6. June 1, 2011: The Township Engineer sent Mr. Tom Kummer, R.L.A. to the site to inspect the trees.
7. June 2, 2011: Mr. Kummer issued a response to the Township supporting the request to remove the trees.
8. June 3, 2011: The Township staff made a decision to authorize the removal of the trees upon receipt of Mr. Kummer's opinion.
9. June 3, 2011: The Y was informed of the Township's authorization to remove the trees pursuant to the agreement that the Y will submit a revised LS plan to the Township for approval, showing the inch for inch replacement of the trees. This is consistent with what was done in similar situations during the construction at the Y.
10. June 6, 2011: The Y removed the trees

The decision to authorize the removal of these trees was not done without consideration of the options or due process; and was made ultimately for the direct safety of the patrons of the Y. With the advice of the Township Engineers office and the possibility that these trees could fall in the next storm and kill someone; we sided with caution and authorized the removal of the trees.

BOARD OF SUPERVISORS
EAST GOSHEN TOWNSHIP

In addition, the Y is going to replace the trees with 70 inches of replacement trees, when they could have; left the trees, completed the project, then removed the trees after the parking lot construction was complete, without planting a single replacement tree.

Now, new trees can be properly planted in the parking island where the trees were removed and throughout the property; which will provide extensively more screening and better aesthetics than was approved with the initial LS Plan.

I am an advocate of the Conservancy Boards' mission, however safety drove the decision making process here. Please don't hesitate to contact me should you have any questions

Sincerely,



Mark A. Gordon
Township Zoning Officer

Enclosure

CC: East Goshen Board of Supervisors
East Goshen Planning Commission
East Goshen Conservancy Board

BOARD OF SUPERVISORS

EAST GOSHEN TOWNSHIP

CHESTER COUNTY

1580 PAOLI PIKE, WEST CHESTER, PA 19380-6199

FYI

June 30, 2011

Dear Property Owner:

The purpose of this letter is to inform you that the property at 922 N. Chester Rd. West Chester, PA 19380, (formerly McGinty's Nursery) has undergone site remediation for arsenic found in the soil as a result of environmental sampling done on the property. The PA Department of Environmental Protection (DEP) regulates these activities (Land Recycling Program).

Pursuant to Township Policy we are notifying all property owners within 1000 feet of the subject property which has undergone this remediation activity.

A report will be filed shortly with DEP and will outline the findings from the post remediation testing. The information on the "Intent to Remediate" for the property is available for review by the public at the Township Building. If you need more specific information about this remediation project contact the PA DEP at 484-250-5900.

Please give me a call at or email me at mgordon@eastgoshen.org if you have any questions or need additional information.

Sincerely,



Mark A. Gordon
Township Zoning Officer

Cc: All Township Authorities, Boards and Commissions