

L M T
Zoning Code
Γ W L

ARTICLE 7 DRAFT
MAY 31, 2019

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ARTICLE 7:
CONSERVATION
& PRESERVATION
OVERLAYS

155-7.1 HROD HISTORIC RESOURCES OVERLAY DISTRICT

7.1.1 Intent

- 7.1.1.a. Preservation and protection of buildings, structures and sites, and objects of historic, architectural, cultural, archaeological, educational and aesthetic merit are public necessities and are in the interests of the health, prosperity and welfare of the people of Lower Merion Township. To that end, a separate zoning district is created to overlay all other zoning districts in the Township.
- 7.1.1.b. The provisions of this Chapter are intended to:
- 7.1.1.b.i. Promote the general welfare by protecting the integrity of the historic resources and neighborhoods with unique architectural characteristics ~~in~~ of Lower Merion Township.
 - 7.1.1.b.ii. Establish a clear and public process by which proposed land use changes affecting historic resources can be reviewed.
 - 7.1.1.b.iii. Discourage the unnecessary demolition of historic resources.
 - 7.1.1.b.iv. Provide incentives for the continued use of historic resources and to facilitate their appropriate reuse.
 - 7.1.1.b.v. Encourage the conservation of historic settings and landscapes.
 - 7.1.1.b.vi. Promote retention of historical integrity in the context of proposed land use and/or structural changes.
 - 7.1.1.b.vii. Preserve historic resources in the community as listed on the Historic Resource Inventory and in local Historic Districts.
 - 7.1.1.b.viii. For conversions, retaining the visual character of the building and the grounds surrounding it as they were designed and/or as they have traditionally been maintained.

7.1.2 Applicability

- 7.1.2.a. The provisions of ~~this "Article 7: Conservation & Preservation Overlays"~~ Article 7: Conservation & Preservation Overlays shall apply to all Class I and Class II Historic Resources and contributing resources in local historic districts designated ~~approved~~ by the Board of Commissioners and identified on the Historic Resource Inventory, unless stated otherwise.
- 7.1.2.b. The properties identified on the Historic Resource Inventory shall constitute an overlay to the Township Zoning Map.
- ~~7.1.2.c. A resource shall not be removed from the Historic Resource Inventory, until the Township issues a written notification to an applicant stating that the resource no longer meets its local historic designation.~~
- 7.1.2.c. A means to guarantee the permanent protection of the historic integrity of the subject resource(s), such as the establishment of conservation easements(s) or appropriate covenants in a form acceptable to the Township Solicitor, shall be provided prior to the granting of any conditional use approval.
- 7.1.2.d. A use ~~other than that permitted by the underlying district~~, may only be permitted, provided the following conditions are met:
- 7.1.2.d.i. The use shall be contained within the historic resource unless otherwise specifically permitted.
 - 7.1.2.d.ii. Obtaining a recommendation by the Historical Commission or Board of Historical Architectural Review (HARB) (if the property is in an historic district), ~~or if not then upon recommendation by the Historical Commission.~~
 - 7.1.2.d.iii. Obtaining conditional use approval by the Board of Commissioners (BOC).
- 7.1.2.e. This section excludes elements on a designated property which do not contribute to the historic resource.
- 7.1.2.f. Reconstruction, alteration or restoration of historic structures shall conform to the current requirements of the United States Secretary of the Interior's Standards for Rehabilitation.
- 7.1.2.g. Additional uses listed in the "Table 7.1.1 Historic Resource Uses" are permitted on properties designated as a Class I and Class II Historic Resource, with further provisions noted in "Table 7.1.2 Historic Resource Use Regulations".

- 7.1.2.h. ~~Additional uses listed in the “Table 7.1.1 Historic Resource Uses” are permitted on properties designated as a Class I and Class II Historic Resource, with further provisions noted in Section 7.1.3.~~
- 7.1.3 Permitted Uses for Class I and Class II Historic Resources
- 7.1.3.a. Any use in the underlying zoning district.
- 7.1.3.b. ~~Uses according to “Table 7.1.1 Historic Resource Uses”~~
- 7.1.4 A use identified by the letter “R” means the use is permitted subject to additional regulations. ~~It is subject to~~ and the following conditions:
- 7.1.4.a. Compliance with the supplemental use regulations in “Table 7.1.2 Historic Resource Use Regulations”.
- 7.1.4.b. ~~A regulated use is subject to administrative approval by the issuance of a use permit by the Zoning Officer.~~
- 7.1.4.c. Where a proposed use is permitted by “7.1.3 Permitted Uses for Class I and Class II Historic Resources”, and is also permitted in the underlying zoning district by special exception, conditional use application to the Board of Commissioners shall be made in accordance with this section in lieu of a special exception application to the Zoning Hearing Board, unless explicitly noted otherwise.
- 7.1.5 Specific Requirements for Conditional Use Approval
- 7.1.5.a. Application procedures for conditional use approval for a historic resource shall conform to the requirements of “Article 11: Process & Procedures”.
- 7.1.5.b. A use identified by the letter “C” means the use must be authorized by Conditional Use.
- 7.1.6 ~~Access and Parking shall be according to “Article 8: Parking Standards” unless otherwise stated in Table 7.1.2. For all uses in a Class I or Class II Historic Resource, the provision of parking shall be in compliance with Article 8, unless otherwise specified.~~
- 7.1.7 Additional Use Requirements for Class I and Class II Historic Resources
- 7.1.7.a. For all uses permitted in “7.1.3 Permitted Uses for Class I and Class II Historic Resources” ~~and “7.1.6 Permitted Uses for Class II Historic Resources”~~ above, located in LDR and MDR districts, the following regulations shall apply:
- 7.1.7.a.i. Off-street parking areas shall be screened from neighboring properties by plant material, or a combination of plant material, fencing or berms, as follows:
- 7.1.7.a.i.(1). To a minimum height of four feet along all frontages.
- 7.1.7.a.i.(2). To a minimum height of five feet along all side and rear properties.
- 7.1.7.a.ii. ~~Show windows, displays or advertising visible outside the premises are prohibited, except for a single, non-illuminated sign not exceeding two square feet.~~
- 7.1.7.a.iii. ~~Ambience standards shall be according to section “155-3.12 Ambience Standards”.~~
- ~~7.1.7.a.iii. No use is permitted which generates noise perceptible at the property line.~~
- ~~7.1.7.a.iv. Site lighting shall be designed to screen the source of illumination and glare from adjacent properties.~~
- 7.1.7.a.iv. Special accessory events which may generate an unusual volume of traffic beyond that normally generated by a permitted use on a daily basis, such as fund-raising events, recitals, stage performances, lectures and exhibitions, etc. ~~are prohibited unless specifically allowed~~ may be permitted by conditional use, in which case the applicant shall have the burden of proving that the public interest is protected considering the criteria set forth in “11.2.8 Burden of Proof”

7.1.8 Relief from Specific Form Standards

- 7.1.8.a. The form requirements applicable to the underlying zoning district relating to ~~lot coverage,~~ impervious surfaces and setbacks may be modified by up to 15% for properties containing Class I and Class II Historic Resources, subject to:
- 7.1.8.a.i. Obtaining a recommendation from by the Historical Commission or Board of Historical Architectural Review (HARB) (if the property is in an historic district), pursuant to Chapter 88.
- 7.1.8.a.ii. Obtaining conditional use approval from the Board of Commissioners.
- 7.1.8.b. Projections into required setbacks that are greater than those permitted in "155-3.6 Projections" may be permitted by the Board of Commissioners as a conditional use if the purpose of the addition is to restore the building to its previous historic configuration, provided that the addition is approved by a recommendation is obtained from the Historical Commission or Board of Historical Architectural Review (HARB) (if the property is in an historic district), and approved by the Board of Commissioners.
- 7.1.8.c. Where form requirements are modified, the applicant shall demonstrate to the satisfaction of the Board of Commissioners that the degree of relief is required to accommodate the reasonable development, use or enhancement of the historic resource.
- 7.1.8.d. The additional building area and impervious surface coverages permitted by this section may each not exceed 50% of the building area of the historic resource(s) subject to a guarantee that provides the permanent protection of the integrity of the historic resource in a form acceptable to the Township Solicitor.
- 7.1.8.e. Where the Board of Commissioners determine that the requested relief is essential to the preservation of the historic resource the Board of Commissioners may, by conditional use, ~~reduce~~ modify such requirements to a greater degree than permitted by this section to protect the historic resource.

7.1.9 Neighborhood Conservation Districts (RESERVED)

- 7.1.9.a. ~~The Architectural Design Standards in Appendix XX of the Zoning Code shall be applied to any improvement in the Neighborhood Conservation District to ensure consistency between the existing neighborhood and proposed improvement.~~
- 7.1.9.b. ~~When Township staff has determined that a proposed improvement does not comply with the Architectural Design Standards, the improvement shall be considered by the HARB.~~

TABLE 7.1.1 HISTORIC RESOURCE USES

USES	CLASS I	CLASS II
RESIDENTIAL		
Accessory Dwelling Unit	R	R
Single-Family to Multi-Family Conversion	C/R	C/R
Non-Residential to Multi-Family Conversion	C/R	C/R
Home Occupation	R	R
LODGING		
Bed & Breakfast	C/R	C/R
CULTURAL / MUSEUM		
Cultural Studio, Gallery, Museum	C/R	C/R
OFFICE		
Office	C/R	
SPECIALIZED RETAIL		
Food Preparation / Catering	C/R	
Repair Services	C/R	
OTHER		
Craft and Production (Artist Studio / Workshop)	C/R	
Place of Assembly (Community Center)	C/R	
Continuing Care Facilities for the Elderly	C/R	

C = Conditional

R = Regulated

TABLE 7.1.2 HISTORIC RESOURCE USE REGULATIONS

USES	CLASS I	CLASS II	USE REGULATION
RESIDENTIAL			
Accessory Dwelling Unit	C/R	C/R	<p>Shall only be authorized as a conditional use subject to the following regulations:</p> <ul style="list-style-type: none"> It is the only single-family dwelling unit other than the principal dwelling. Class I historic resources shall comply with "Table 8.1 Minimum Parking Requirements". Class II historic resources require one off-street parking space be provided for the accessory unit.
Single-Family to Multi-Family Conversion	C/R	C/R	<p>Shall only be authorized as a conditional use subject to the following regulations:</p> <ul style="list-style-type: none"> A minimum of 75% of the lot area requirement for the district in which the designated lot is located shall be provided for each dwelling unit, up to a maximum of five units. <u>The lot area required for the conversion cannot be used to determine the density in a future subdivision.</u> No future subdivision of the property shall be permitted. A covenant shall be recorded to document this restriction. The only permitted external alterations of the converted building shall be subject to <u>the following:</u> <ul style="list-style-type: none"> <u>Those required for reasons of safety or compliance with the accessibility and requirements of the International Building Code.</u> <u>Openings required to accommodate new windows and doors, grade level patios or wood decks.</u> <u>Vents or exhausts for mechanical systems.</u> <u>Upper floor balconies on the side or rear of the building.</u> <u>New stairways located to the rear of the building, unless required by the building code to be located on the side of the building.</u> <u>Open porches.</u> Building additions subject to compliance with the following: <ul style="list-style-type: none"> Form standards of underlying zoning; and An addition shall be limited to a maximum of 5% of the building footprint of the historic resources and shall not be visible from the public way. A detached private garage shall be: <ul style="list-style-type: none"> Located to the rear or side of the existing building to be converted and subject to the setback requirements in its zoning district but in no case may be less than 10 feet from the side or rear property line. Required parking shall comply with "Article 8: Parking Standards", except as noted herein: Existing on-site parking may be shared, provided that there is at least 1.5 parking spaces on the lot dedicated for each dwelling unit. All surface parking added to comply with required parking for the conversion shall not be located in the front yard setback or In front of the historic resource and shall be screened from the public way.

C = Conditional
R = Regulated

TABLE 7.1.2 HISTORIC RESOURCE USE REGULATIONS

USES	CLASS I	CLASS II	USE REGULATION
RESIDENTIAL (CONT'D)			
<p><u>Non-Residential to Multi-Family Conversion</u></p>	<p><u>C/R</u></p>	<p><u>C/R</u></p>	<p><u>Shall only be authorized as a conditional use subject to the following regulations:</u></p> <ul style="list-style-type: none"> • <u>The minimum lot area requirement for the district in which the lot is located shall be provided for each dwelling unit in the proposed converted building.</u> • <u>No future subdivision of the property may reduce the lot area below the minimum requirement of the applicable zoning district.</u> • <u>Where a non-historic accessory building also exists on the lot, the non-historic building may also be converted.</u> • <u>A covenant shall be recorded to document this regulation.</u> • <u>The building on the lot shall comply with the building form standards for the zoning district in which it is located. To the degree the building is nonconforming, the existing and new improvements required to complete the conversion shall comply to Tables 4.1 to 4.4 and Tables 6.1 to 6.5 and to "Article 3: General to Districts".</u> • <u>The only permitted external alterations of the converted building are:</u> <ul style="list-style-type: none"> • <u>Those required for reasons of safety or compliance with the accessibility and requirements of the International Building Code.</u> • <u>Openings required to accommodate new windows and doors, grade level patios or wood decks.</u> • <u>Vents or exhausts for mechanical systems.</u> • <u>Upper floor balconies on the side or rear of the building.</u> • <u>New stairways located to the rear of the building, unless required by the building code to be located on the side of the building.</u> • <u>Open porches.</u> • <u>Building additions subject to compliance with the following:</u> <ul style="list-style-type: none"> • <u>Form standards of underlying zoning; and</u> • <u>Additions shall be limited to a maximum of 20% of the building facade at the primary frontage. Limited to a maximum of 20% addition of the building facade at the primary frontage.</u> • <u>The addition of a detached private garage or parking structure, subject to compliance with the following conditions:</u> <ul style="list-style-type: none"> • <u>A detached private garage shall be:</u> <ul style="list-style-type: none"> • <u>Located to the rear or side of the existing building to be converted and subject to the setback requirements in its zoning district but in no case may be less than 10 feet from the side or rear property line.</u> • <u>Limited to a maximum of two cars and 600 square feet maximum.</u> • <u>A parking structure shall be designed to fit into the topography with as many spaces below grade as possible.</u> • <u>A planted buffer of not less than 20 feet in width along the full length of each side and rear lot line shall be provided in LDR and MDR districts, unless a finding shows adjacent properties are sufficiently protected from the impact of the converted building by a lesser buffer or by no buffer at all. No driveway or parking area is permitted within this required buffer area.</u>

TABLE 7.1.2 HISTORIC RESOURCE USE REGULATIONS

USES	CLASS I	CLASS II	USE REGULATION
RESIDENTIAL (CONT'D)			
<u>Non-Residential to Multi-Family Conversion (Continued)</u>	C/R	C/R	<ul style="list-style-type: none"> Required parking shall comply with <u>"Article 8: Parking Standards"</u>, except as noted herein: <ul style="list-style-type: none"> Where a residential use is created in accordance with this subsection, the existing on-site parking may be shared by both uses, provided that there is at least one parking space on the lot dedicated for each dwelling unit. Unrestricted on-street parking for residents along the front-age of the subject lot may be utilized to meet the minimum parking requirements, provided that at least one off-street parking space is provided for each dwelling unit and the subject lot is located outside a local historic district. All surface parking added to comply with required parking for the conversion shall be screened from the view of adjacent properties at ground level, to the extent practicable, by planting a mix of deciduous and evergreen trees and shrubs or a combination of fencing, walls or plantings. If the net lot area exceeds five acres, the lot shall comply with the provisions of Section <u>"155-7.2 OSOD Open Space Overlay District"</u>.
Home Occupation	R	R	<p>Historic Resource home occupation is permitted subject to the following regulations:</p> <ul style="list-style-type: none"> No more than eight commercial visits per day. No more than one employee in addition to the practitioner for every 500 square feet of gross habitable floor area devoted to the home occupation. All visits shall fall between the hours of 9:00 a.m. and 9:00 p.m. No more than 25% of the habitable floor area shall be used for the historic resource home occupation. Home occupations may be conducted in a building/structure accessory to the practitioner's principal residence, provided that the accessory building/structure is determined by the Board of Commissioners to be a contributing resource and is identified as such on the Historic Resource Inventory. One additional off-street parking space is required when the home occupation includes one or more employees. A separation requirement of 300 feet from any other historic resource home occupation or any other home occupation (except nontraffic home occupations) shall apply. This may be modified by Conditional Use, if the applicant established that the use is located in a neighborhood which is not primarily residential in character or the use will not have a substantial tendency to commercialize the neighborhood.
LODGING			
Bed & Breakfast	C/R	C/R	<p>Shall only be authorized as a conditional use subject to the following regulations:</p> <ul style="list-style-type: none"> A maximum of five guest suites, with a maximum of 15 guests. No kitchen or cooking facilities in any guest suite. The use of amenities, such as swimming pool or tennis courts, is restricted to guests staying at the establishment and owners.

TABLE 7.1.2 HISTORIC RESOURCE USE REGULATIONS

USES	CLASS I	CLASS II	USE REGULATION
CULTURAL / MUSEUM			
Cultural Studio, Gallery, Museum	C/R	C/R	<p>Shall only be authorized as a conditional use in a LDR or MDR zoning district subject to the following regulations:</p> <ul style="list-style-type: none"> The area devoted to the use is limited to 3,000 square feet. The property owner, or the manager or lessor of the facility, shall reside on the premises. Permitted hours of operation are between 7:00 a.m. and 9:00 p.m.
OFFICE			
Office	C/R		<p>Shall only be authorized as a conditional use subject to the following regulations:</p> <ul style="list-style-type: none"> The property shall be accessed from a primary, secondary and/or tertiary street and not located in a local historic district. Limited to one two employees per 500 square feet of gross habitable floor area.
SPECIALIZED RETAIL			
Food Preparation / Catering	C/R		<p>Shall only be authorized as a conditional use subject to the following regulations:</p> <ul style="list-style-type: none"> The property shall be accessed from a primary, secondary and/or tertiary street and not located in a local historic district. No food consumption on premises. Limited to one employee per 500 square feet of gross habitable floor area. Permitted hours of operation are between 7:00 a.m. and 9:00 p.m.
Repair Services	C/R		<p>Shall only be authorized as a conditional use subject to the following regulations:</p> <ul style="list-style-type: none"> The property shall be accessed from a primary and/or secondary street only and not located in a local historic district. Excludes automobile, motorcycle, or lawnmower repair. Limited to one employee per 500 square feet of gross habitable floor area. Permitted hours of operation are between 7:00 a.m. and 9:00 p.m.
OTHER			
Craft and Production (Artist Studio / Workshop)	C/R		<p>Shall only be authorized as a conditional use subject to the following regulations:</p> <ul style="list-style-type: none"> The property shall be accessed from a primary, secondary and/or tertiary street and not located in a local historic district. Limited to one two employees per 500 square feet of gross habitable floor area. Permitted hours of operation between 7:00 a.m. and 9:00 p.m.
Place of Assembly (Community Center)	C/R		<p>Shall only be authorized as a conditional use subject to the following regulations:</p> <ul style="list-style-type: none"> The property shall be accessed from a primary and/or secondary street only and not located in a local historic district.

TABLE 7.1.2 HISTORIC RESOURCE USE REGULATIONS

USES	CLASS I	CLASS II	USE REGULATION
OTHER (CONT'D)			
Continuing Care Facilities for the Elderly	C/R		<p>Shall only be authorized as a conditional use subject to the following regulations:</p> <ul style="list-style-type: none"> • The property shall be accessed from a primary, secondary and/or tertiary street and not located in a local historic district. • A minimum lot area of 5 acres is required • The maximum gross density is limited to four (4) dwelling units per acre. Assisted living units, memory care/nursing units in a Class 1 Historic Resource are permitted, in addition to the maximum gross density for dwelling units, but shall be no more than 45% nor less than 25% of the number of dwelling units on the lot. • An addition to a historic resource shall be limited to a maximum of 25% of the total floor area of that historic resource(s). • <u>Dwelling units newly constructed are permitted, but their floor area shall be limited to the total floor area of the historic resource(s).</u> • 50% of the permitted units shall be located in the converted Class 1 Building. • Building additions subject to compliance with the following: <ul style="list-style-type: none"> • Form standards of underlying zoning; and • <u>Additions shall be limited to a maximum of 20% of the building facade at the primary frontage.</u> Limited to a maximum of 20% addition of the building facade at the primary frontage. • The lot shall meet the dimensional standards of the underlying zoning districts unless expressly modified by this section. • The lot shall comply with the provisions of Section 7.2 OSOD Open Space Overlay District, except for 7.2.4.a. • The maximum height shall be three stories or 40 feet or the height of the Class 1 resource whichever is lower. The height restriction shall not apply to the conversion of an existing building to a Continuing Care Facility for the Elderly. • Off Street parking shall be provided at a rate of 0.6 parking spaces for each bed in the assisted living/nursing/memory care units and parking for the dwelling units shall be based on 2 spaces per unit.

~~7.1.6 Permitted Conversions for Class I Non-Residential Historic Resources~~

- ~~7.1.6.a. Multi-family building If it is a conversion of a nonconforming building The conversion to a multi-family building of a Class 1 Historic Resource is permitted where the principal use is being had been lawfully used for a religious, club or lodge non-residential use. Where non-historic accessory building also exists on the lot, the non-historic building may also be converted.~~
- ~~7.1.6.b. The minimum lot area requirement for the district in which the lot is located shall be provided for each dwelling unit in the proposed converted building. No future subdivision of the property may reduce the lot area below the minimum requirement of the applicable zoning district. A covenant shall be recorded to document this restriction regulation.~~
- ~~7.1.6.b.i. Where any portion of the lot containing a building to be converted includes a cemetery, the lot area devoted to the cemetery use shall not be included as part of this minimum lot area requirement.~~
- ~~7.1.6.c. The use building on the lot shall comply with the building form standards for the zoning district in which it is located. To the degree the building is nonconforming, the existing and new improvements required to complete the conversion shall comply to Tables 4.1 to 4.4 and Tables 6.1 to 6.5 and to "Article 3: General to Districts".~~
- ~~7.1.6.d. For properties located in a local historic district, t The only permitted external alterations of the converted building are:~~
- ~~7.1.6.d.i. Those required for reasons of safety or compliance with the accessibility and requirements of the International Building Code.~~
- ~~7.1.6.d.ii. Openings required to accommodate new windows and doors, grade level patios or wood decks.~~
- ~~7.1.6.d.iii. Vents or exhausts for mechanical systems.~~
- ~~7.1.6.d.iv. Upper floor balconies on the side or rear of the building.~~
- ~~7.1.6.d.v. New stairways located to the rear of the building, unless required by the building code to be located on the side of the building.~~
- ~~7.1.6.d.vi. Open porches.~~
- ~~7.1.6.d.vii. Building additions subject to compliance with the following:~~
- ~~7.1.6.d.vii.(1). Form standards of underlying zoning; and~~
- ~~7.1.6.d.vii.(2). Limited to a maximum of 20% addition at visible frontage lines. of the building façade at the primary frontage.~~
- ~~7.1.6.e. The addition of a detached private garage or parking structure, subject to compliance with the following conditions:~~
- ~~7.1.6.e.i. A detached private garage shall be:~~
- ~~7.1.6.e.i.(1). Located to the rear or side of the existing building to be converted and subject to the setback requirements in its zoning district but in no case may be less than 10 feet from the side or rear property line.~~
- ~~7.1.6.e.i.(2). Limited to a maximum of two cars and 600 square feet maximum.~~
- ~~7.1.6.e.ii. A parking structure shall be designed to fit into the topography with as many spaces below grade as possible.~~
- ~~7.1.6.f. The Board of Commissioners shall specify the maximum dwelling units permitted and may prescribe additional conditions with respect to the conversion and use of the building and lot as it deems appropriate to achieve the following objectives.~~
- ~~7.1.6.f.i. Complies with the intent of this section.~~
- ~~7.1.6.f.ii. Does not increase the number of dwelling units permitted above the limits permitted in this section.~~
- ~~7.1.6.f. A planted buffer of not less than 20 feet in width along the full length of each side and rear lot line shall be provided in LDR and MDR districts, unless a finding shows adjacent properties are sufficiently protected from the impact of the converted building by a lesser buffer or by no buffer at all. No driveway or parking area is permitted within this required buffer area.~~
- ~~7.1.6.g. Required parking shall comply with "Article 8: Parking Standards", except as noted herein:~~
- ~~7.1.6.g.i. Where a residential use is created in accordance with this subsection, the~~

~~existing on-site parking may be shared by both uses, provided that there is at least one parking space on the lot dedicated for each dwelling unit.~~

~~7.1.6.g.ii. Unrestricted on-street parking for residents along the frontage of the subject lot may be utilized to meet the minimum parking requirements, provided that at least one off-street parking space is provided for each dwelling unit and the subject lot is located outside a local historic district.~~

~~7.1.6.h. All surface parking added to comply with required parking for the conversion shall be screened from the view of adjacent properties at ground level, to the extent practicable, by planting a mix of deciduous and evergreen trees and shrubs or a combination of fencing, walls or plantings.~~

~~7.1.6.i. If the net lot area exceeds five acres, the lot shall comply with the provisions of Section "155-7.2 OSOD Open Space Overlay District".~~

~~7.1.6.j. If there is a cemetery on any portion of the lot where the conversion is proposed, the cemetery shall be divided and located on a separate lot. The applicant shall submit documents demonstrating compliance with all the following conditions:~~

~~7.1.6.j.i. That a cemetery company has been established and a permanent lot care fund has been created according to law. In no case may the amount be less than the amount required by the state for a cemetery company established as of the date of application.~~

~~7.1.6.j.ii. The applicant shall submit on behalf of the cemetery company a maintenance program for the lot(s) and structures within it detailing the means by which both shall be cared for to keep them in neat, orderly and good appearance.~~

~~7.1.6.j.iii. A plan shall be submitted documenting the location of the cemetery plots occupied and/or sold as of the date the application for conversion is filed. No new or future cemetery plots may be located closer than 20 feet from any property line.~~

~~7.1.6.j.iv. With respect to the cemetery lot and the adjacent lot(s) on which the converted buildings are located, adequate provision shall be made for traffic circulation and parking to accommodate funeral processions.~~

~~7.1.6.j.v. There shall not be any new curb cuts permitted for providing access to the cemetery unless it is demonstrated that a new curb cut is needed to improve circulation for funeral processions or cemetery maintenance.~~

~~7.1.6.k. A historic resource impact study as outlined in "7.1.12 Historic Resource Impact Study" shall be performed and submitted with the conditional use application.~~

~~7.1.5. Where property access is obtained from a primary, secondary and/or tertiary street and which where such property is not located in a local historic district, uses listed in Table 7.1.1 are permitted on properties designated as a Class I Historic Resource, subject to "7.1.2 Applicability".~~

~~7.1.5.a. Office:~~

~~7.1.5.a.i. Professional Office:~~

~~7.1.5.a.ii. Academic or technical research facility, not including biological, medical or chemical laboratory. Permitted on primary and secondary streets only.~~

~~7.1.5.a.iii. Limited to one two employees per 500 square feet of gross habitable floor area:~~

~~7.1.5.b. Craft and Production:~~

~~7.1.5.b.i. Permitted on primary and secondary streets only if producing objects which may be sold at retail on the premises:~~

~~7.1.5.b.ii. Limited to one two employees per 500 square feet of gross habitable floor area:~~

~~7.1.5.b.iii. Permitted hours of operation between 7:00 a.m. and 9:00 p.m.~~

~~7.1.5.c. Specialized Retail:~~

~~7.1.5.c.i. Food preparation or catering business, not including food consumption:~~

~~7.1.5.c.ii. Repair services, not including automobile, motorcycle or lawnmower repair permitted on primary and secondary streets only:~~

~~7.1.5.c.iii. Limited to one employee per 500 square feet of gross habitable floor area.~~

- ~~7.1.5.c.iv. Permitted hours of operation are between 7:00 a.m. and 9:00 p.m..~~
- ~~7.1.5.d. Community Residential Facility.~~
 - ~~7.1.5.d.i. Only on primary and secondary streets.~~
 - ~~7.1.5.d.ii. On a lot of three acres minimum.~~
 - ~~7.1.5.d.iii. The separation requirements of "Article 5: Uses" shall apply.~~
- ~~7.1.5.e. Place of Assembly.~~
 - ~~7.1.5.e.i. Community center only.~~
 - ~~7.1.5.e.ii. Permitted on primary and secondary streets only.~~

~~7.1.6 Permitted Uses for Class II Historic Resources~~

- ~~7.1.6.a. Any use in the underlying zoning district.~~
- ~~7.1.6.b. Uses according to table ---~~
- ~~7.1.6.c. Where property access is obtained from any street, uses listed in 7.1.6.c below are permitted on properties designated as a Class II Historic Resource, and subject to "7.1.2 Applicability".~~
- ~~7.1.6.d. Other permitted uses include:~~
 - ~~7.1.6.d.i. Accessory dwelling unit. Subject to the following:~~
 - ~~7.1.6.d.i.(1). It is the only single-family dwelling unit other than the principal dwelling.~~
 - ~~7.1.6.d.i.(2). One off-street parking space is provided for the accessory unit.~~
 - ~~7.1.6.d.ii. Dwelling unit or Multi-family building if it is a conversion of a nonconforming building where the principal use is being lawfully used for a religious, club or lodge use. If a non-historic accessory building also exists on the lot, the non-historic building may be converted. Compliance with section "7.1.3 Permitted Uses for Class II Historic Resources" is required for all conversions.~~
 - ~~7.1.6.d.iii. Bed-and-breakfast. If located in a LDR or MDR zoning district, The following conditions apply:~~
 - ~~7.1.6.d.iii.(1). A maximum of five guest suite, with a maximum of 15 guests.~~
 - ~~7.1.6.d.iii.(2). No kitchen or cooking facilities in any guest suites.~~
 - ~~7.1.6.d.iii.(3). The use of amenities, such as swimming pool or tennis courts, is restricted to guests staying at the establishment.~~
 - ~~7.1.6.d.iii.(4). Cultural / Museum. If located in a LDR or MDR zoning district, the following conditions apply:~~
 - ~~7.1.6.d.iii.(1). The area devoted to the use is limited to 2,000 square feet.~~
 - ~~7.1.6.d.iii.(2). The property owner, or the manager or lessor of the facility, shall reside on the premises.~~
 - ~~7.1.6.d.iii.(3). Permitted hours of operation are between 7:00 a.m. and 9:00 pm.~~
- ~~7.1.8.c. Properties on which a lawful nonconforming use is located in a Class I or Class II historic resource, and which obtains access from a primary or secondary street may continue to be used and designated as a legally nonconforming use, provided the following conditions are met:~~
 - ~~7.1.8.c.i. The use shall be permitted as a conditional use, or by special exception in LDR and MDR districts.~~
 - ~~7.1.8.c.ii. Any new buildings, additions to existing buildings, or expansion of use on the property shall meet the form standards of the underlying zoning district, except to the extent such property is already nonconforming or to the extent modified pursuant to the provisions of "3.14.3 Impervious Surface & Expansion".~~
 - ~~7.1.8.c.iii. Buffer area shall be as follows:~~
 - ~~7.1.8.c.iii.(1). A minimum of 20 feet in width along the side or rear property lines, but in no case shall be less than the required setback.~~
 - ~~7.1.8.c.iii.(2). A minimum of 30 feet in width along the side or rear property lines, for new or expanded floor area in excess of 5,000 square feet.~~
 - ~~7.1.8.c.iii.(3). Any existing improvements that project into the required buffer area may remain, provided that they were lawful when built.~~
 - ~~7.1.8.c.iv. A group home for the elderly shall only be permitted on a property having a~~

~~gross area of at least three acres.~~

~~7.1.8.c.v. Off-street parking shall be provided at a rate of 0.6 parking space for each bed in the case of a sanatorium, nursing home skilled nursing facility, convalescent home or home for the aged. All other provisions of "Article 8: Parking Standards" shall apply that are not in conflict with this requirement.~~

~~7.1.8.c.vi. The provisions of this subsection shall not apply to properties within/ contributing to a Local Historic District.~~

~~7.1.12 Historic Resource Impact Study~~

~~7.1.12.a. The historic resource impact study shall be prepared by a qualified historic preservation or land planner with professional expertise in historic preservation, historical architecture or related disciplines as provided for in 36 CFR 61.~~

~~7.1.12.b. Contents. The study shall contain the following information unless the Director of Building and Planning determines them to be not pertinent to the application:~~

~~7.1.12.b.i. Background information:~~

~~7.1.12.b.i.(1). A site plan, including existing structures, topography, water courses, vegetation, landscaping, existing drives, etc, with all contributing elements labeled accordingly.~~

~~7.1.12.b.i.(2). General description and classification of all historic elements located on the subject tract as shown on the site plan, or on tracts immediately adjacent to the subject tract.~~

~~7.1.12.b.i.(3). Statement of the significance of each Class I or II Historic Resource, both relative to the Township and region in general.~~

~~7.1.12.b.i.(4). Sufficient number of digital photographs to show every historic resource identified in its setting. Photographs shall be at least 3000 x 2000 pixels, numbered, and with their locations noted on the site plan.~~

~~7.1.12.b.i.(5). Narrative description of the historical development of the subject tract.~~

~~7.1.12.b.ii. Proposed change:~~

~~7.1.12.b.ii.(1). General description and site plan of the project, including time table or phases.~~

~~7.1.12.b.ii.(2). Description of impact on each contributing element within the Class I or II Historic Resource identified in "Article 11: Process & Procedures", with regard to architectural integrity, historic setting and future use.~~

~~7.1.12.b.ii.(3). General description of effect of noise and traffic and other impacts generated by the proposed change on any contributing element within the Class I or II Historic Resource identified in "Article 11: Process & Procedures".~~

155-7.2 OSOD OPEN SPACE OVERLAY DISTRICT

7.2.1 Intent.

The provisions of this Chapter are intended to:

- 7.2.1.a. Provide an effective means of responding to site conditions for the preservation of floodplains, wetlands, streams, valleys, woodlands and other natural and scenic features and historic resources in a manner consistent with Township policy.
- 7.2.1.b. Provide for the creation, retention and protection of historic sites and open space areas within the Township.
- 7.2.1.c. Provide an opportunity to attain the objectives of the Township's Open Space and Environmental Resource Protection Plan, Historic Sites Comprehensive Mapping Project and Comprehensive Plan with regard to open space preservation, orderly growth and enhancement of environmental resources.
- 7.2.1.d. Encourage innovation and to promote flexibility, economy and ingenuity in the residential development of large tracts, including subdivisions and land developments that are in keeping with the residential character and scale of adjacent residential neighborhoods and in particular, existing historic ~~resources context and their~~ resources and their context.
- 7.2.1.e. Preserve scenic vistas and encourage the contiguous preservation of open space where possible.

7.2.2 Applicability.

- 7.2.2.a. The Open Space Overlay District is defined and established to include and be an overlay upon all parcels five acres or larger within any LDR or MDR zoning district.
- 7.2.2.b. All properties ~~within the an LDR or MDR district used or intended to be developed for residential purposes~~ shall comply with the provisions of this article.
- 7.2.2.c. The applicant shall establish that development, including site improvement, lot design and open space configuration, preserves natural features and environmentally sensitive areas in accordance with Chapter 101, Natural Features Conservation, preserves historic sites and in all other respects complies with Article V, General Standards, of Chapter 135, Subdivision and Land Development.
- 7.2.2.d. Relief from the requirements of the Open Space Overlay District may be granted by the Board of Commissioners as a conditional use, provided the applicant proves compliance with the standards and criteria set forth in "Article 11: Process & Procedures" establishing the following:
 - 7.2.2.d.i. That conventional development will preserve natural and scenic features, historic sites and historic resources to a degree equal to or greater than development under the Open Space Overlay District would permit. The applicant may be required to protect such features, sites and resources from further development with appropriate covenants running with the land. Where development of less than the entire parcel is intended or where the parcel is intended to be developed at less density than conventional development would permit, the applicant may be required to file a development plan for the entire parcel pursuant to ~~s~~Section 135-17C(12) or may be required to ~~restrict~~ regulate further subdivision and/or development on the remainder of the tract by recorded covenant or agreement.
 - 7.2.2.d.ii. That the applicant has achieved the intent of the Open Space Overlay District set forth in "7.2.1 Intent." by deed restriction, conveyance of a perpetual conservation easement to a recognized nonprofit corporation established for that purpose, or by any other means of facility ownership set forth in section 7.2.9.

- 7.2.3 Permitted Uses: The following residential uses are permitted in ~~the OSOD lots districts:~~
- 7.2.3.a. A use permitted in the underlying zoning district ~~is allowed.~~
- 7.2.3.b. Additional permitted uses in LDR include:
- 7.2.3.b.i. Twins
- 7.2.3.b.ii. Duplexes
- 7.2.3.b.iii. Multifamily dwellings, only as conversions of structures listed on the Township's Historic Resource Inventory. Reconstruction, alteration or restoration of historic resources shall conform to the current requirements of the United States Secretary of the Interior's Standards for Rehabilitation, Reconstruction and Restoration.
- 7.2.3.b.iv. ~~Conditional Uses. Age-targeted development, on parcels 25 acres or larger and including the conversion of a resource listed on the Historic Resource Inventory, developed in accordance with the residential and Preservation Area uses permitted ~~above~~ in this district.~~
- 7.2.3.c. Preservation Area Uses: The following uses are permitted on Preservation Area:
- 7.2.3.c.i. Conservation of open land in its natural state.
- 7.2.3.c.ii. ~~Park~~, Pedestrian or equestrian trails. Trails constructed of pervious material may be counted toward the required Preservation Area.
- 7.2.3.c.iii. Pasture land, open field or lawn meadow.
- 7.2.3.c.iv. ~~Outdoor recreation areas, including playgrounds are permitted in the Preservation Area provided they are set back at least 100 feet from the tract boundary or a dwelling unit within the development. Playground equipment shall be neutral in color and shall not include paved areas. No more than 25% of the Preservation Area may contain non-commercial recreation areas.~~
- 7.2.3.c.v. Class I and Class II Historic Resources. The ~~footprint of area~~ occupying these resources may count towards a maximum of 20% of the required preservation area, subject to such requirements as the Township shall determine necessary to preserve and maintain the historic resource, including the exemption of the area occupied by the historic resource from the common access requirements of this article.
- 7.2.3.d. The Preservation Area shall be free of structures of any kind, including, but not limited to play houses, tree houses, netting, sheds or similar appurtenances, with the exception of historic buildings and their associated paved areas not used for vehicular purposes. The Preservation Area shall be permanently restricted for the common enjoyment and passive recreational use by residents in the development or by the general public. Fences, regardless of their purpose, size, age, type or design, shall not be permitted to intrude into or cut across/through the Preservation Area.
- 7.2.3.e. Sewage disposal systems, underground stormwater management systems and associated easements may occupy up to ~~20~~ 10 percent of the minimum required Preservation Area, provided the systems do not require the removal of trees. The following standards apply:
- 7.2.3.e.i. Sewage Disposal Systems.
- 7.2.3.e.i.(1). Sewage treatment lagoons, structures, structure access areas and parking lots shall not count toward the Preservation Area requirement.
- 7.2.3.e.i.(2). Absorption fields serving individual dwelling units may be located in the Preservation Area, but individual treatment tanks shall be located within the lots they serve.
- 7.2.3.e.i.(3). Easements for sanitary sewer lines may be counted toward the minimum Preservation ~~Land~~ Area requirements.

- 7.2.3.e.ii. Stormwater Management Systems. The following stormwater management practices may be counted toward the minimum Preservation Area requirement, provided they meet the guidelines in the PA Stormwater Best Management Practices Manual:
 - 7.2.3.e.ii.(1). Infiltration basin, provided the berms do not exceed 36 inches in height;
 - 7.2.3.e.ii.(2). Subsurface infiltration bed;
 - 7.2.3.e.ii.(3). Infiltration trench, no deeper than 18 inches;
 - 7.2.3.e.ii.(4). Rain garden;
 - 7.2.3.e.ii.(5). Vegetated swale, no deeper than 19 inches;
 - 7.2.3.e.ii.(6). Infiltration berm, provided the berm does not exceed 24 inches in height.
- 7.2.3.f. Easements of rights-of-way for overhead power lines shall not count towards the minimum Preservation Area requirements.
- 7.2.3.g. ~~Conditional Uses. Age-targeted development, on parcels 25 acres or larger and including the conversion of a resource listed on the Historic Resource Inventory, developed in accordance with the residential and Preservation Area uses permitted above.~~
- 7.2.4 Maximum Density and Minimum Preservation Area. The following development standards apply to all development in this district.
 - 7.2.4.a. Maximum Density. The maximum number of lots and/or dwelling units shall be determined by the yield map, developed as part of the Tentative Sketch Plan requirements. In determining the maximum number of lots on the yield plan, the Township reserves the right to require that the applicant demonstrate full compliance with the Zoning standards applicable to the underlying zoning district, permitted by right as opposed to Conditional Use or Special Exception, as well as the applicable Subdivision and Land Development Code and Natural Features Conservation Code standards.
 - ~~7.2.4.b. Density Bonus. Age-targeted development, permitted by Conditional Use, on parcels 25 acres or larger and including the conversion of a resource listed on the Historic Resource Inventory may receive a bonus of 1.5 times the maximum density provided that the development complies with all other OSOD requirements.~~
 - 7.2.4.b. Minimum Preservation Area. The minimum Preservation Area for developments permitted by right shall be 50% of the gross net tract area, and shall demonstrate compliance with the following:
 - 7.2.4.c. No more than 50% of the preservation area shall be comprised of designated floodplain hazard districts, wetlands or slopes in excess of 25%.
 - 7.2.4.d. In the case of developments permitted by conditional use, the percentage of Preservation Area shall increase to 60%, subject to the standard above. Refer to section 7.2.2.d.
 - 7.2.4.e. Greens. At least one green shall be provided in the required Preservation Area. Homes shall face the green, either directly, or across a street. Greens shall be a minimum of 7,500 square feet.
- 7.2.5 Dimensional Standards for Preservation Area.
 - 7.2.5.a. Structures shall be situated so as to maintain a minimum setback from any tract property line equal to the front yard setback of the underlying zoning district.
 - 7.2.5.b. Where proposed development adjoins public parkland the Preservation Area shall be at least 100 feet wide along its common boundary with the parkland. For development parcels ten acres or less, this buffer shall be reduced to 50 feet.
 - 7.2.5.c. Where ~~lots are~~ development is clustered, the minimum lot areas, setbacks and lot widths from the underlying district shall not be required.
 - 7.2.5.d. Maximum height shall be the same as in the underlying zoning district.

7.2.6 Preservation Area Design Standards

- 7.2.6.a. Preservation Area shall be identified and designed in accordance with the Four-Step Design Process described in Section xxx of the Subdivision and Land Development Code and with the Preservation Area design standards in the Subdivision and Land Development Code.
- 7.2.6.b. Applicants for new residential development may fulfill the recreation land dedication requirements in Section X of the Chapter 135, by dedicating an equivalent amount of Preservation Area as recreation land.
- 7.2.6.c. Pedestrian and maintenance access for all residents of the development shall be provided to Preservation Area land in accordance with the following requirements:
 - 7.2.6.c.i. No more than 10 lots shall be contiguous to each other without a centrally located access point meeting the following standards:
 - 7.2.6.c.i.(1). The width of the access strip shall be 25 feet or greater.
 - 7.2.6.c.i.(2). The access strip shall extend the full depth of the adjacent lots.

7.2.7 Age-targeted development for residents aged 55 and over on parcels over 25 acres (RESERVED) may be permitted at the density set forth in Section 7.2.4 upon compliance with the standards for the OSOD and with the following:

- ~~7.2.7.a. The development shall obtain Conditional Use approval from the Board of Commissioners.~~
- ~~7.2.7.b. The Board of Commissioners may grant conditional use, provided the applicant proves compliance with the standards and criteria set forth in "Article 11: Process & Procedures" establishing the following:~~
 - ~~7.2.7.b.i. That the proposed development will preserve natural and scenic features, historic sites and historic resources to a degree equal to or greater than development under the Open Space Overlay District would permit.~~
 - ~~7.2.7.b.ii. That the applicant has achieved the intent of the Open Space Overlay District set forth in "7.2.1 Intent." by conveyance of a perpetual conservation easement to a recognized nonprofit corporation established for that purpose, or by any other means of facility ownership set forth in section 7.2.9.~~
 - ~~7.2.7.b.iii. That the proposed development is consistent with the Official Map.~~

7.2.8 Transfer of Development Rights. (RESERVED) It is the intention of this section to further the goals of the OSOD by permitting density to be transferred from parcels identified as "Sending Parcels" on the Township Official Map and permitting them to be transferred to parcels 25 acres or larger, for the purpose of developing an age-targeted development under the standards of the OSOD, Such development shall be permitted by Conditional Use, and shall comply with all standards applicable to OSOD and to the following additional standards:

- ~~7.2.8.a. A Yield Map shall be prepared to determine the maximum density of the Sending parcel and of the Receiving parcel(s).~~
- ~~7.2.8.b. For each lot or dwelling unit determined to be permitted on the Sending parcel, a density bonus of 1.5 times the number of lots or dwelling units may be transferred to the Receiving parcel. However, in no instance shall maximum density on the Receiving parcel exceed two times the maximum density of the Receiving parcel as determined by the Yield map.~~
- ~~7.2.8.c. Permission to transfer units from one parcel to another shall be subject to the requirements of the Zoning Code, Subdivision & Land Development Code and any other regulations that apply to the development of the Receiving parcel.~~
- ~~7.2.8.d. The applicant shall enter into an agreement with the Township specifying the maximum number of units permitted on the sending and receiving parcels.~~
- ~~7.2.8.e. Prior to final approval of the plans for the sending or receiving parcels, a deed of dedication to the Township or a conservation easement meeting the requirements of Section XXX shall be established prohibiting any development of the sending parcel, except as agreed in Section xxx above. Such restriction shall be recorded in the Montgomery County Office of Recorder of Deeds. The terms and form of the deed of dedication or conservation easement shall be acceptable to the Township.~~

- ~~7.2.9 Preservation Area and facility ownership and maintenance standards. To ensure adequate planning for operation and maintenance of common open space, preservation areas, recreation facilities, sewage facilities, central water supply facilities, stormwater management facilities, common parking areas and driveways, private streets and any other common or community facilities (hereinafter referred to as "common facilities"), the following regulations shall apply:~~
- ~~7.2.9.a. Preservation. Preservation Area shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement or other agreement in a form acceptable to the Township Solicitor and duly recorded in the Office of the Recorder of Deeds of Montgomery County.~~
- ~~7.2.9.b. Maintenance. A plan for the disposition, use, maintenance and insurance of the Preservation Area, including provisions for funding, shall be provided to and approved by the Township Solicitor prior to Preliminary Plan approval. The Board of Commissioners may permit or require all or portions of Preservation Area or common facilities be divided among one or more individual lots and may confer responsibility for maintenance of such upon the owner(s) of such lot(s).~~
- ~~7.2.9.c. Use. Preservation Area shall be available for use by those having an ownership interest in the tract as developed. Portions of the Preservation Area may be designated for use by the general public. The Board of Commissioners may by conditional use grant relief from the provisions of this subsection subject to all of the conditions for the grant of conditional use set forth in subsection 7.2.6.c, Access to Preservation Areas.~~
- ~~7.2.9.d. Ownership. The following methods may be used, either individually or in combination, to own common facilities: condominium ownership, fee simple dedication to public agency, dedication of easements to the Township, fee simple dedication to a private conservation organization, transfer of easements to a private conservation organization and/or homeowners' association. Common facilities shall not be eligible for transfer to another entity except for transfer to another method of ownership permitted under this section, and then only where there is no change in the common facilities. Ownership methods shall conform to the following:~~
- ~~7.2.9.d.i. Condominium. Common facilities shall be controlled with condominium agreements. Such agreements shall be approved by the Township Solicitor and be in conformance with the Uniform Condominium Act of 1980. All land and facilities shall be held as "common element."~~
- ~~7.2.9.d.ii. Fee simple dedication to a public agency. The Township or other public agency acceptable to the Township may, but shall not be required to, accept any portion of the common facilities. The Township shall have the right to accept at any time and from time to time the dedication of land or any interest therein for public use, provided that:~~
- ~~7.2.9.d.ii.(1). Any common facilities are accessible to the residents of the Township;~~
- ~~7.2.9.d.ii.(2). There is no cost of acquisition (other than any costs incidental to the transfer of ownership, such as title insurance);~~
- ~~7.2.9.d.ii.(3). The Township or other public agency acceptable to the Township agrees to and has access to maintain such common facilities;~~
- ~~7.2.9.d.iii. Transfer of easements to a public agency. The Township or other public agency acceptable to the Township may, but shall not be required to, accept easements for public use of any portion of the common facilities, title of which is to remain in private ownership, provided that:~~
- ~~7.2.9.d.iii.(1). Any common facilities are accessible to the residents of the Township;~~
- ~~7.2.9.d.iii.(2). There is no cost of easement acquisition (other than any costs incidental to the transfer of ownership, such as title insurance);~~
- ~~7.2.9.d.iii.(3). A satisfactory maintenance agreement is reached between the owner and the Township;~~

- ~~7.2.6.c.ii. Fee simple dedication to a private conservation organization. Any owner may dedicate any portion of the common facilities to a private, nonprofit conservation organization, provided that:~~
- ~~7.2.6.c.ii.(1). The organization is acceptable to the Township and is a bona fide conservation organization with perpetual existence.~~
- ~~7.2.6.c.ii.(2). The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.~~
- ~~7.2.6.c.ii.(3). A maintenance agreement acceptable to the Township is established between the owner and the grantee, in accordance with section 7.2.9.e.~~
- ~~7.2.6.c.iii. Transfer of easements to a private conservation organization. Any owner may transfer easements on common facilities to a private, nonprofit conservation organization, provided that:~~
- ~~7.2.6.c.iii.(1). The organization is acceptable to the Township and is a bona fide conservation organization with perpetual existence.~~
- ~~7.2.6.c.iii.(2). The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.~~
- ~~7.2.6.c.iii.(3). A maintenance agreement acceptable to the Township is established between the owner and the grantee, in accordance with section 7.2.9.e.~~
- ~~7.2.6.c.iv. Homeowners' Association. Common facilities shall be held in common ownership by a homeowners' association, subject to all the provisions set forth herein and in Section 705-f of the Pennsylvania Municipalities Planning Code. In addition, the homeowners' association shall be governed according to the following:~~
- ~~7.2.6.c.iv.(1). The owner or applicant shall provide to the Township a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities.~~
- ~~7.2.6.c.iv.(2). The organization shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units within the development.~~
- ~~7.2.6.c.iv.(3). Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.~~
- ~~7.2.6.c.iv.(4). The organization shall be responsible for maintenance of and insurance on common facilities.~~
- ~~7.2.6.c.iv.(5). The members of the organization shall share equitably the costs of maintaining, insuring and operating common facilities.~~
- ~~7.2.6.c.iv.(6). The owner or applicant for any tract proposed to contain common facilities shall arrange with the County Board of Assessment a method of assessment of the common facilities which will allocate to each tax parcel in the development a share of the total assessment for such common facilities. Where this alternative is not utilized, the organization shall be responsible for applicable real estate taxes on common facilities.~~
- ~~7.2.6.c.iv.(7). Written notice of any proposed transfer of common facilities by a homeowners' association or the assumption of maintenance for common facilities must be given to all members of the organization and to the Township no fewer than 30 days prior to such event.~~
- ~~7.2.6.c.iv.(8). The organization shall have or hire adequate staff, as necessary, to administer, maintain and operate common facilities.~~

- ~~7.2.6.d. Maintenance and operation of common facilities:~~
- ~~7.2.6.d.i. The applicant shall, at the time of preliminary plan submission, provide a plan for maintenance and operation of common facilities. Said plan shall:~~
- ~~7.2.6.d.i.(1). Define ownership;~~
- ~~7.2.6.d.i.(2). Establish necessary regular and periodic operation and maintenance responsibilities; and~~
- ~~7.2.6.d.i.(3). Estimate staffing needs, insurance requirements and associated costs, and define the means for funding the same on an ongoing basis.~~
- ~~7.2.6.d.ii. During the first year following final plan approval, the applicant may be required to escrow sufficient funds for the maintenance and operation of common facilities for up to one year.~~
- ~~7.2.6.d.iii. In the event that the organization established to own and/or maintain common facilities, or any successor organization thereto, fails to maintain all or any portion of the aforesaid common facilities in reasonable order and condition in accordance with the development plan and all applicable laws, rules and regulations, the Township may serve written notice upon such organization, and upon the residents and owners of the uses relating thereto, setting forth the manner in which the organization has failed to maintain the aforesaid common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this chapter, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended. The Township may enter the premises and take corrective action.~~
- ~~7.2.6.d.iv. The costs of corrective action by the Township shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and shall become a lien on said properties. The Township, at the time of entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien in the office of the Prothonotary of the county upon the properties affected by such lien.~~

155-7.3 FLOODPLAIN OVERLAY DISTRICT**7.3.1 Intent**

- 7.3.1.a. In the interest of protecting the public health, safety and welfare, the provisions of this article are intended to:
- 7.3.1.b. Protect areas of the Township which are subject to floodwaters and erosion, including properties near rivers, streams, creeks and other areas subject to flooding and erosion.
- 7.3.1.c. Prevent excessive development in areas unfit by reasons of flooding, erosion, unsanitary conditions and related hazards.
- 7.3.1.d. Minimize danger to public health by protecting water supply and natural drainage.
- 7.3.1.e. Protect the environment and ecology within the floodplain, especially of streams and creeks, which are more susceptible to damage or destruction caused by development than is the environment and ecology of the floodplain of rivers.
- 7.3.1.f. Permit and encourage the retention of open space land uses and scenic viewsheds of the Schuylkill River, which will be so located and utilized as to constitute an appropriate and harmonious part of the physical development of the Township as provided for in the Comprehensive Plan.
- 7.3.1.g. Permit only the appropriate development of flood-prone areas in light of the probability of flood damage and the need to reduce flood losses, which is an acceptable social and economic use of the land in relation to the hazards involved and which does not increase the danger to human life.
- 7.3.1.h. Prohibit nonessential or improper installation of public utilities and public facilities in flood-prone areas.

7.3.2 Applicability

- 7.3.2.a. The Floodplain Overlay District is defined and established to include areas subject to the base flood, designated on the Lower Merion Township Floodplain Overlay District Map and prepared by the Township of Lower Merion. It is based on the Flood Insurance Study for the Township of Lower Merion, Montgomery County, Pennsylvania, as prepared by the Federal Emergency Management Agency (FEMA), dated March 2, 2016, or the most recent revision thereof, United States Department of Housing and Urban Development and the Lower Merion Township Topographic Map last revised October 1973.
- 7.3.2.b. The Lower Merion Township Floodplain Overlay District Map, the Flood Insurance Study and the Lower Merion Township Topographic Map are available to the public for inspection at the Building and Planning Department of the Township of Lower Merion.
- 7.3.2.c. The Lower Merion Township Floodplain Overlay District Map and all notations, references and other data shown thereon are hereby incorporated by reference in this chapter as if all were fully described herein.
- 7.3.2.d. The Floodplain Overlay District is an overlay on any zoning district and applicable to all lots.

7.3.3 Revision or modification

- 7.3.3.a. The delineation of the Floodplain Overlay District, all as designated in the Lower Merion Township Floodplain Overlay District Map may be revised, amended and modified in compliance with the National Flood Insurance Program when:
 - 7.3.3.a.i. There are changes in the floodplain data reflecting natural or man-made physical changes; or
 - 7.3.3.a.ii. Changes are indicated by future detailed hydrologic and hydraulic studies.
- 7.3.3.b. The procedure for revision, amendment and modification of the Floodplain Overlay District as designated on the Lower Merion Township Floodplain Overlay District Map shall be governed by this subsection and shall require a zoning permit from the Zoning Officer. No earth disturbance or construction work in the modified floodplain area shall proceed until this approval has been obtained and the zoning permit has been issued. When a property is located in a Special Flood Hazard Area on the Flood Insurance Rate Map no revision, amendment or modification to the Floodplain Overlay District shall become effective without the prior approval of FEMA. Flood map revisions shall be subject to the following requirements:
 - 7.3.3.b.i. Technical and/or scientific data shall be submitted by the applicant to the

Zoning Officer for review by the Township Engineer. A flood map amendment shall not go into effect until the Zoning Officer has received approval from the Township Engineer and has issued a zoning permit.

- 7.3.3.b.ii. Technical and/or scientific data shall also be submitted by the applicant to FEMA for a Letter of Map Revision (LOMR) as soon as practicable but no later than six months of any new construction, development, or other activity resulting in changes in the ~~BFE~~ Base Flood Elevation. The situations when a LOMR or a Conditional Letter of Map Revision (CLOMR) are required are:
- 7.3.3.b.ii.(1). Any development that causes a rise in the base flood elevations within the floodway; or
- 7.3.3.b.ii.(2). Any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or
- 7.3.3.b.ii.(3). Alteration or relocation of a stream, including but not limited to installing culverts and bridges.
- 7.3.3.c. A notice shall be sent to all adjacent property owners, providing notice of the flood map amendment application and informing abutting owners where the application can be reviewed. This notice shall also provide the appeal process if an abutting owner decides to appeal the zoning permit.

7.3.4 Permitted Uses

The following uses and no other shall be permitted in the Floodplain Overlay District.

- 7.3.4.a. Cultivated, forested and grazing areas according to recognized soil conservation practices.
- 7.3.4.b. Outdoor plant nurseries or orchards according to recognized soil conservation practices.
- 7.3.4.c. Wildlife sanctuary, woodland preserve or arboretum.
- 7.3.4.d. Game farms, fish hatcheries and reserves for the protection and propagation of wildlife, but permitting no structures.
- 7.3.4.e. Forestry, lumbering and reforestation according to recognized natural resources conservation practices.
- 7.3.4.f. Front, side and rear yards for required lot area in any district.
- 7.3.4.g. Normal accessory uses (except enclosed by fencing, or otherwise enclosed, freestanding structures) permitted within LDR and MDR zones.
- 7.3.4.h. Sanitary, storm sewers and utility lines, so long as they are floodproofed.
- 7.3.4.i. Public, private or commercial recreational uses, including parks, picnic areas, open space, golf courses and fishing; piers, docks and floats; not to include enclosed structures except toilet facilities that shall be connected to public water and sewerage systems, not to include fences or regrading of areas, except as permitted as a special exception under 7.3.9.
- 7.3.4.j. Outlets for sewage treatment plant effluent with the approval of the Pennsylvania Department of Environmental Protection.
- 7.3.4.k. Flood retention dams, culverts and bridges, approved by the Township Engineer and approved by the Pennsylvania Department of Environmental Protection for those water-courses which drain an area of more than 1/2 square mile.
- 7.3.4.l. Parking of recreational vehicles, provided that the following conditions are met in Zones A, A1-30, AH and AE on the Flood Insurance Rate Map:
- 7.3.4.l.i. The recreational vehicle shall be on the site for fewer than 180 consecutive days; or
- 7.3.4.l.ii. The recreational vehicle shall be fully licensed and ready for highway use.

- 7.3.5 On residential lots, fences are only permitted if erected in the floodway fringe between the street right-of-way and the floodway of the Schuylkill River and fences shall conform to the requirements of section "155-3.7 Fences and Walls" and the following:
- 7.3.5.a. The fence shall comply with Table 7.3.1: Fences in Floodway Fringe
 - 7.3.5.b. No chain-link fence shall be erected in the floodway fringe of the Schuylkill River.
 - 7.3.5.c. Swimming pools and tennis courts. Fences for swimming facilities shall adhere to the standards specified in Chapter 143, Uniform Construction Code, and shall also comply with the opening requirements in Table 7.3.1.
 - 7.3.5.d. Height standards for fences surrounding tennis courts shall be determined by the Zoning Hearing Board. Tennis court fences shall also comply with the opening requirements in Table 7.3.1.

TABLE 7.3.1 FENCE IN FLOODWAY FRINGE

LOCATION	HEIGHT OF FENCE	PERMITTED FENCE TYPE
<u>Street right-of-way to frontmost wall of principal building or the required front yard setback, whichever is closest to the street.</u>	<u>Fences up to 4 feet in height</u>	<u>Solid fence or fence with openings, provided the fence is properly anchored in accordance with the Pennsylvania Uniform Construction Code.</u>
<u>Street right-of-way to frontmost wall of principal building or the required front yard setback, whichever is closest to the street.</u>	<u>Fences 4 feet to 6 feet in height</u>	<u>The entire fence in this area shall contain openings equal to 75% or more of fence (e.g., estate fence).</u>
<u>Frontmost wall to rearmost wall of principal building</u>	<u>Fences up to 6 feet in height</u>	<u>Solid fence or fence with openings, provided the fence is properly anchored in accordance with the Pennsylvania Uniform Construction Code.</u>
<u>Rearmost wall of principal building to the floodway</u>	<u>Fences up to 4 feet in height</u>	<u>The entire fence in this area shall contain openings equal to 50% or more of fence (e.g., picket fence, estate, post and rail) and be properly anchored in accordance with the Pennsylvania Uniform Construction Code</u>

7.3.6 Prohibited Uses.

For the purpose of maintaining the Floodplain Overlay District, the uses listed below are specifically prohibited.

- 7.3.6.a. All freestanding structures and buildings and retaining walls or substantial improvements, which shall include but not be limited to generators, mechanical equipment and transformers (with the exception of flood retention dams, culverts, and bridges as approved by the Pennsylvania Department of Environmental Protection for those watercourses which drain an area of more than ½ square mile), except as permitted under this Chapter as a variance, special exception, or conditional use.
- 7.3.6.b. Because of the threat to human health and safety, under no circumstances shall variances be permitted for:
 - 7.3.6.b.i. Sanitary landfills, dumps, junkyards, outdoor storage of vehicles and materials and the production, storage or maintenance of a supply of toxic chemicals, either outside or within a structure.
 - 7.3.6.b.ii. The construction, enlargement or expansion of all mobile homes, mobile home parks and mobile home subdivisions; hospitals (public or private); ~~nursing homes~~ skilled nursing facilities (public or private); and jails or prisons.
- 7.3.6.c. Radioactive substances, insofar as such substances are not otherwise regulated.
- 7.3.6.d. Any substance which, if it were discarded, would be a hazardous waste as defined in the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 et seq.
- 7.3.6.e. Any chemical substance or mixture which is subject to the testing requirements of the Toxic Substance Control Act, 15 U.S.C. § 2601 et seq.
- 7.3.6.f. Any substance which is toxic or highly toxic under the Federal Hazardous Substances Act, 15 U.S.C. § 1261 et seq.
- 7.3.6.g. Any substance required to be registered under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 1261 et seq.
- 7.3.6.h. Sewage treatment plants
- 7.3.6.i. Stopping, filling up, confining, paving or other interference with or changing the course of drains, ditches, streams and watercourses, except in strict compliance with Chapter 149, Watercourses, of this Code.
- 7.3.6.j. The filling of land in the floodplain and the removal of soil from the floodplain, except as a special exception, in accordance with section "7.3.7 Use restrictions: Special Exceptions".

7.3.7 Use restrictions: Special Exceptions

- 7.3.7.a. The following uses may be permitted within the Floodplain Overlay District as special exceptions, pursuant to this section and "11.2.8 Burden of Proof" when and if they are not in conflict with the stated intent of this chapter and if the use will not result in any increase in flood levels during the base flood discharge.
 - 7.3.7.a.i. Paved roads, driveways and parking areas, provided that no alternative non-floodplain locations are feasible. In the case of parking lots, no such lot shall be permitted unless satisfactory evidence is submitted that such parking will not be used during periods of flood flow, thus posing no threat to the safety of the vehicles, their occupants or to downstream properties. Temporary parking for periods not to exceed one hour or parking for recreation uses would be examples of such exceptions.
 - 7.3.7.a.ii. Minor changing or regrading of areas, including the filling of land and removal of soil, including walls, which will in no way contaminate, pollute, inhibit or increase the water flow or inhibit the water storage capacity of such areas.
 - 7.3.7.a.iii. Swimming facilities and tennis courts.
 - 7.3.7.a.iv. On-site disposal systems shall be located to avoid impairment to them, or contamination from them during flooding, and shall be subject to the approval of the Pennsylvania Department of Environmental Protection.

7.3.8 Schuylkill River floodway fringe

- 7.3.8.a. Buildings, structures, paved roads, driveways, parking areas, swimming facilities, tennis courts and associated grading may be permitted within the floodway fringe of the Schuylkill River by special exception, pursuant to this section and section "11.2.8 Burden of Proof". ~~If the use proposed requires land development approval, it may be permitted by conditional use, pursuant to this section and "155-5.3 Criteria for Conditional Use approval". In either case,~~ There shall be a specific finding that such use does not conflict with the stated intent of this chapter, nor will the use result in any increase in flood levels during the base flood discharge.
- 7.3.8.b. Structures shall not be located in the floodway.
- 7.3.8.c. Structures shall be constructed and located on the lot so as to offer minimum of obstruction to the flow of water.
- 7.3.8.d. Sewer, water and electric lines shall be floodproofed to a height of 24 inches above the base flood level. A professional engineer or architect registered in the Commonwealth of Pennsylvania and employed by the developer shall certify to the Township that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood. A record of such certificates indicating the specific elevation (in relation to mean sea level) to which all such sewer, water and electric lines are floodproofed shall be maintained with the Director of Building and Planning.
- 7.3.8.e. Structures shall be constructed with all portions of all rooms, including basements, at least 24 inches above the base flood level. Exceptions include nonresidential structures in the Light Industrial (LI) District that may be constructed if all portions of all rooms, including basements, are constructed at or above the base flood level, and their associated sewer, water and electric lines are floodproofed to the base flood level.
- 7.3.8.f. Structures shall be permanently anchored so as to prevent flotation or lateral movement.
- 7.3.8.g. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto abutting properties.
- 7.3.8.h. Where an existing building is being altered or expanded and the alterations or expansion qualifies as a substantial improvement, the entire building shall comply with all of the provisions above.
- 7.3.8.i. Upon completion of the framing of the first occupied floor level, an as-built certificate verifying compliance with the provisions above shall be submitted to the Zoning Officer.
- 7.3.8.j. Hospitals, ~~nursing homes~~ skilled nursing facilities, jails, new manufactured home parks, subdivision or substantial additions to manufactured home parks or subdivisions shall also be required to obtain approval from the Department of Community and Economic Development in accordance with the administrative regulations of the Pennsylvania Flood Plain Management Act, Act No. 166.

- 7.3.9 Procedures for Special Exceptions and Variances
- 7.3.9.a. All applications for special exceptions and variances in this article shall be submitted by the applicant and processed, adjudicated and issued or not issued by the Zoning Hearing Board of Lower Merion Township pursuant to the provisions and requirements of this article and pursuant to all provisions and requirements of "Article 11: Process & Procedures" of this chapter which are not in conflict with this article.
- 7.3.9.b. All applicants shall provide the Zoning Hearing Board with the site plan submission requirements specified in "Article 11: Process & Procedures".
- 7.3.10 Conflicts with other Code provisions
- 7.3.10.a. This article shall take precedence over all other portions of the Code of the Township of Lower Merion and over all Township of Lower Merion regulations due to the Township's needs to minimize the hazardous conditions and property damages resulting from flooding occurrences.
- 7.3.11 Official responsible
- 7.3.11.a. The Township Manager is hereby designated the Township official with the responsibility, authority and means to implement the commitments required in Paragraph (a) of Section 1909.22 of Subpart B of Part 1909 of Subchapter B of Chapter X of 24 CFR Part II, and any amendments thereto.
- 7.3.11.b. The Township Manager is hereby designated the Township official responsible to submit an annual report to the Federal Insurance Administrator concerning the Township's participation in the National Flood Insurance Program, including but not limited to the development and implementation of floodplain management regulations, and the Township Manager shall utilize annual report form (OMB No. 63-R1546) or amendments or successors thereto.
- 7.3.12 Warning and Liability
- 7.3.12.a. The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by natural or man-made causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside the Floodplain Overlay District or that uses permitted within the Floodplain Overlay District will be free from flooding or flood damage.
- 7.3.12.b. The grant of a zoning or building permit or approval of a subdivision or land development plan or the issuance of a special exception or a variance in the Floodplain Overlay District does not constitute a representation, guaranty or warranty of any kind by the Township of Lower Merion or its agencies or by any official, employee or member thereof of the practicability or safety of the proposed use or structure and shall create no liability on the Township of Lower Merion, its agencies or any official, employee or member thereof.

155-7.4 STEEP SLOPES OVERLAY DISTRICT

7.4.1 Intent

In the interest of protecting the public health, safety and welfare, the provisions of this article are intended to:

- 7.4.1.a. Minimize runoff and soil erosion which is caused by inappropriate development of steep slope land areas.
- 7.4.1.b. Protect the Township from development of steep slopes of land which may cause a subsequent expenditure for public works and disaster relief which affects the economic well-being of the Township and its residents.
- 7.4.1.c. Protect residents from property damage and personal injury due to runoff and erosion and landslides attributable to nearby development on steeply sloping land.
- 7.4.1.d. Relate the intensity of development to the steepness of terrain in order to minimize grading, the removal of vegetation, runoff and erosion and to help ensure the utilization of land in accordance with its natural capabilities to support development.
- 7.4.1.e. Restrict sedimentation and the alteration of natural drainage patterns which may aggravate flooding both in the immediate area and in downstream areas.

7.4.2 Applicability

- 7.4.2.a. The requirements of all zoning districts shall be modified in accordance with the provisions of this article on all land having an average slope of 10% or more as delineated on a plan which meets the requirements of a Preliminary Plan as specified in the Lower Merion Township Subdivision and Land Development Code.
- 7.4.2.b. For residential development of single-family units, twins, and quads, the following conditions apply.
 - 7.4.2.b.i. Lots within the Steep Slopes Overlay District proposed for land development or created by subdivision shall comply with "Table 7.4.1 Steep Slope Development Restrictions".
- 7.4.2.c. For development of rowhouses, multifamily buildings and non-residential development, the following conditions apply.
 - 7.4.2.c.i. Lots within the Steep Slopes Overlay District proposed for land development or created by subdivision shall comply with "Table 7.4.1 Steep Slope Development Restrictions".
- 7.4.2.d. All freestanding structures, buildings and substantial improvements (with the exception of driveways and utilities when no other location is feasible) are prohibited on slopes of 25% or greater. ~~This provision does not apply to man made steep slopes as determined by the Township Engineer.~~
- 7.4.2.e. If no new lots are proposed, the minimum lot area is not applicable. Only the maximum impervious surface applies.

7.4.3 Steep slope regulations

The following steep slope regulations shall apply to all zoning districts for lots proposed for land development or hereafter created by subdivision and shall be regulated according to “Table 7.4.1 Steep Slope Development Restrictions”.

TABLE 7.4.1 STEEP SLOPE DEVELOPMENT RESTRICTIONS

TYPE OF DEVELOPMENT	AVERAGE SLOPE (MIN. - MAX.)	INCREASE IN MINIMUM LOT AREA	MAXIMUM IMPERVIOUS SURFACE
SINGLE FAMILY, TWINS, AND QUADS	10% - 15%	1.3	20%
	15% - 25%	1.5	15%
	25% min.	2	10%
ROWHOUSES, MULTI-FAMILY, AND NON-RESIDENTIAL DEVELOPMENT	10% - 15%	1.3	less 10% of max. impervious surface of underlying district
	15% - 25%	1.5	less 15% of max. impervious surface of underlying district
	25% min.*	2	less 20% of max. impervious surface of underlying district
NOTES	* Refer to Section “7.4.2 Applicability”		

7.4.4 Liability

7.4.4.a. Neither the approval of any proposed subdivision by any officer, employee or agency of the Township of Lower Merion, nor the grant of any subdivision approval by the Board of Commissioners of the Township of Lower Merion, shall constitute a representation, guaranty or warranty of any kind by the Township of Lower Merion or by any of its officers, employees, agencies or members of its agencies of the safety or practicality of the proposed subdivision and use, and such approval or grant of approval shall create no liability on the part of the Township of Lower Merion or its officers, employees, agencies or members of its agencies.

155-7.5 ~~WOODED LOTS TREE CANOPY AND HERITAGE TREE CONSERVATION DISTRICT~~

- 7.5.1 Intent
 In the interest of providing for the protection and preservation of natural resources of the Township of Lower Merion, the provisions of this article are intended to:
 - 7.5.1.a. Preserve the tree canopy cover ~~and Heritage Trees~~ of the Township.
 - 7.5.1.b. Encourage property development in such a way as to minimize destruction of existing trees.
 - 7.5.1.c. Conserve and plant trees as a means of stabilizing soil and thereby conserving water quality.
 - 7.5.1.d. Encourage the replanting of trees throughout the Township.

- 7.5.2 Applicability
 - 7.5.2.a. The requirements of this section apply to parcels in ~~all zoning~~ LDR, MDR, and I districts as follows:
 - 7.5.2.a.i. All parcels subject to subdivision and land development approval.
 - 7.5.2.a.ii. All parcels subject to Minor Grading Permit approval.
 - 7.5.2.a.iii. All parcels subject to ~~a~~ Runoff and Erosion Control Permit approval.
 - 7.5.2.b. The requirements of this section ~~apply~~ applies to any parcel containing one or more ~~than~~ viable tree having a caliper of six inches or greater.
 - 7.5.2.c. A tree shall be assumed to be removed if land disturbance occurs within the dripline of the tree.

- 7.5.3 Tree replacement requirements. In ~~all zoning~~ LDR, MDR, and I districts, the following regulations shall apply:
 - 7.5.3.a. Upon removal of more than 25% of the existing viable trees having a caliper of six inches or greater, ~~or upon removal of any Heritage Tree~~, the following replacement shall be provided:
 - ~~7.5.3.a.i. Any tree with a caliper greater than 30 inches shall be considered a Heritage Tree. In addition, the following species shall be considered Heritage Trees when the tree caliper reaches 24 inches:~~

TABLE 7.5.1 TREE REPLACEMENT

FOR EACH TREE TO BE REMOVED AT THE FOLLOWING SIZES DBH:	MINIMUM NUMBER & CALIPER OF REPLACEMENT TREES:
6" to 10" DBH	One 2 - 2½" caliper
10" to 18" DBH	Two 2 - 2½" caliper
18" to 24" DBH	Three 2 - 2½" caliper
24" to less than 30" (excluding Heritage Trees)	Four 2 - 2½" caliper
All Heritage Trees	Six 2 - 2½" caliper

- 7.5.3.b. Replacement trees shall be native, deciduous shade trees. However, applicants may substitute native evergreen trees, a minimum eight feet in height, for up to one third of the deciduous shade tree species.
- ~~7.5.3.c. In addition, applicants for subdivision, land development or a Runoff and Erosion Control permit shall demonstrate that Heritage Trees are being preserved, by demonstrating that no disturbance shall occur, as a result of construction, within the dripline of the tree. Applications that preserve Heritage Trees shall be subject to a credit to Table 7.5.3 at the ratio of four replacement trees for each Heritage Tree conserved.~~
- 7.5.3.c. Where an applicant submits a plan prepared by a Professional Landscape Architect, licensed in Pennsylvania and demonstrates removal of invasive tree species over six inches in caliper is desirable for landscape restoration, a 50% replacement planting shall be required for the invasive tree species. Restoration of the area with native vegetation and demonstration that erosion and sedimentation is mitigated, shall be demonstrated on the plan. The Township maintains a list of invasive tree species exempt from the replacement planting requirements
- 7.5.3.d. The applicant shall submit a plan to the Building and Planning Department illustrating the number and location of trees proposed to be removed and the number, species and location of trees to be planted.
- 7.5.3.e. Development plans shall contain information in sufficient detail to assure the Township that the requirements of this section are met.
- 7.5.3.f. Required replacement trees shall conform to the standards of the publications "American or U.S.A. Standard for Nursery Stock," ANSI or U.S.A.S. Z60.1 of the American Association of Nurserymen, as amended. All plant material used on the site shall have been grown so as to have a high likelihood of survival on the site (e.g., grown specifically for planting in the applicable USDA hardiness zone) and shall be nursery grown, unless it is determined by the Township that the transplanting of trees fulfills the requirements of this section
- 7.5.3.g. All replacement trees shall be guaranteed and maintained in a healthy and/or sound condition as required in Code Section 101-11. In addition, the Applicant may be required to escrow sufficient additional funds for the maintenance and/or replacement of the trees in order to provide for the removal and replacement of trees damaged during construction, based upon the recommendation of the Township. For subdivision and land development plantings, the more restrictive requirements of [Code Section XX](#) shall apply.
- 7.5.3.h. Where approved by the Township, some or all of the required replacement plantings may be installed at a Township site other than that subject to required replacement planting.

TABLE 7.5.2 HERITAGE TREE

TREE SPECIES	
ALL GENERA INCLUDING BUT NOT LIMITED TO:	
Quercus	Ostrya
Prunus	Liquidambar
Populus	Liriodendron
Acer	Magnolia
Carya	Filbert
Ulmus	Nyssa
Crataegus	Carpinus
Tilia	Aesculus
Juglans	Gymnocladus
Fagus	Castanea

~~Evergreen - In addition, the following species shall be considered Heritage Trees when the height reaches 25 feet:~~

TREE SPECIES	
ALL GENERA INCLUDING BUT NOT LIMITED TO:	HEIGHT:
Tsuga	
Picea	
Junipers	-
Cedrus	
Spruces	
Pseudotsuga	
Hex	
Pinus	
Taxus	
Larix	
Abies	
Thuja	
Chamaecyparis	