AN ORDINANCE

NO. _____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 155, Entitled Zoning, Article XXXV, City Avenue District, §155-219, City Avenue District: Bala Village, §155-219B Use Regulations To Require Active Ground Floor Uses In Buildings Fronting On Bala Avenue, City Avenue, And Cynwyd Road, And To Allow Galleries And Museums, And To Establish A Separation Requirement For Less Active Uses, And To Remove A Multiple-Use Development And Adult Or Child Daycare As A Permitted Use, And To Amend §155-219C(1) To Limit The 10% Building Area Increase To Mixed-Use Buildings, And To Amend §155-219C(5) To Limit The 10% Impervious Surface Increase To Mixed-Use Buildings, And To Amend §155-219C(9) To Require A Buffer For Any Development Abutting A Residential District, And To Allow A Reduction In the Buffer Requirements By Conditional Use When A Development Abuts A Railroad Right-Of-Way; And To Amend §155-219E To Limit Floor Area Ratio Density Increases To Mixed-Use Buildings Only, And To Remove The Incentives For Residential Single-Use Buildings, And To Amend The Incentive For Underground And/Or Wrapped Parking Structures, And To Increase The Historic Preservation Incentive From 0.1 To 0.2.

The Board of Commissioners of the Township of Lower Merion hereby ordains:

Section 1. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXXV, City Avenue District, § 155-219, City Avenue District: Bala Village (BV), subsection B, Use Regulations, is hereby amended in its entirety to provide as follows:

§ 155-219. City Avenue District - Bala Village (BV).

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B. Use regulations. A building or group of buildings may be erected or used and a lot may be used or occupied only for the purposes listed below.

(1) The following ~~R~~residential uses are permitted on upper floors of buildings fronting on Bala Avenue, City Avenue, or Cynwyd Road and on any floor, elsewhere.

(a) Townhouse buildings.

(b) Apartment house.

(c) Upper-story residential uses above nonresidential uses.

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(d) Live/work units for artisans, professionals and service providers, provided that the work area does not exceed 50% of the floor area of the dwelling unit.

(e) Accessory uses on the same lot with and customarily incidental to any of the above permitted uses, including surface parking and parking structures.

(f) Any use of the same general character as any of the uses hereinbefore specifically permitted, excluding off-track betting parlors.

(2) The following uses are permitted on grade level and upper floors:~~Nonresidential uses.~~

(a) Retail sales, excluding a drive-through facility.

(b) Hotel.

(c) Theater.

(d) Full-service restaurants excluding a drive-through facility.

(e) Bakery, confectionery or custom shop for the production of articles to be sold at retail on the premises, excluding a drive-through facility.

(f) Personal service shop, ~~including tailor, laundry, dry cleaning, (excluding on-site cleaning operations) barber, beauty salon, shoe repair or similar type use,~~ excluding a drive-through facility.

(g) Bank or other financial institution, excluding a drive-through facility.

(h) Transit facilities.

(i) Business service facilities, including copy centers and job printing operating on a retail sales level, excluding a drive-through facility.

(j) ~~Real estate sales and travel agency.~~Reserved.

(k) ~~Business and professional office.~~Reserved.

(l) ~~Adult or child day care.~~Reserved.

(m) ~~Nursery school or similar nonresidential use for more than six children.~~Reserved.

(n) Public gathering space, park, or plaza.

(o) Municipal use. However, any municipal parking structure shall be exclusively limited to passenger vehicles or vehicles having a gross vehicle weight rating of no greater than 7,500 pounds.

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(p) Accessory use on the same lot with and customarily incidental to any of the above permitted uses, including aboveground or below ground parking structures and excluding drive-through facilities.

(q) Any use of the same general character as any of the uses hereinbefore specifically permitted, but specifically excluding off-track betting parlors, slot parlors and other gaming uses.

(r) Storage use, as an accessory use to any permitted use, provided that the storage area does not occupy more than 10% of the total floor area.

(s) Galleries and museums.

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(3) The following uses are permitted on upper floors of buildings fronting on Bala Avenue, City Avenue, and Cynwyd Road and on any floor elsewhere. They are also permitted on the ground floor of buildings fronting on Bala Avenue, City Avenue, and Cynwyd Road if the separation between these uses is at least 300 linear feet*, measured from the closest property lines as a pedestrian would walk:

THE BOARD WILL CONSIDER A RANGE BETWEEN 100-300 FEET FOR THE SEPARATION REQUIREMENT.

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(a) Real estate sales and travel agency.

(b) Business and professional office.

(c) Nursery school or similar nonresidential use for more than six children.

(d) Accessory use on the same lot with and customarily incidental to any of the above permitted uses, including aboveground or below ground parking structures but excluding drive-through facilities.

(e) Any use of the same general character as any of the uses hereinbefore specifically permitted, but specifically excluding off-track betting parlors, slot parlors and other gaming uses.

(f) Storage use, as an accessory use to any permitted use, provided that the storage area does not occupy more than 10% of the total floor area.

~~(3) Mixed-use building.~~

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~~(a) Uses permitted on the ground floor in a mixed-use building shall be limited to those listed in § 155-219B(2)(a) through (i) listed above.~~

~~(b) Any use permitted in § 155-219B(1) or (2) above shall be permitted on upper floors of a mixed-use building.~~

~~(4) Multiple-use development. A multiple-use development for purposes of this district shall be defined as an integrated, complementary development of two or more buildings on one or more lots, provided that the lots are adjacent to and abut one another. The multiple-use development can be phased, and shall include both nonresidential and residential occupancies as listed under § 155-219B. No single use fronting on Bala Avenue or City Avenue shall occupy more than 80% of the total gross floor area of the buildings on the subject lot(s) in a multiple-use development. For purposes of calculating the use limitation above, accessory parking shall not be included.~~

Section 2. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXXV, City Avenue District, § 155-219, City Avenue District: Bala Village (BV), §155 -219C(1)Building Area, paragraph (b) thereof, is hereby amended to provide as follows:

§ 155-219. City Avenue District - Bala Village (BV).

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C. Dimensional standards for development.

(1) Building area. The building area shall be limited as follows:

(a) Single-use buildings. The building area is limited to 70% of the net lot area.

(b) Mixed-use buildings~~ or multiple-use development~~. The building area is limited to 80% of the net lot area.

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Section 3. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXXV, City Avenue District, § 155-219, City Avenue District: Bala Village (BV), §155 -219 C (5), Impervious surface, is hereby amended to provide as follows:

§ 155-219. City Avenue District - Bala Village (BV).

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C. Dimensional standards for development.

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(5) Impervious surface.

(a) Single-use buildings. The impervious surface is limited to 80% of the lot.

(b) Mixed-use buildings ~~or multiple-use developments~~. The impervious surface is limited to 90% of the lot.

Section 4. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXXV, City Avenue District, § 155-219, City Avenue District: Bala Village (BV), §155 -219 C (9), Buffer Area, is hereby amended to provide as follows:

§ 155-219. City Avenue District - Bala Village (BV).

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C. Dimensional standards for development.

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(9) Buffer area.

(a) Where a BV ~~commercial~~ development abuts a residential use in a residential zoning district along a side or rear property line, there shall be a buffer area of at least 20 feet.

(b) Where a BV ~~commercial~~ development abuts a railroad right-of-way with a residential district on the opposite side of the railroad, there shall be a buffer area of at least 10 feet. When part of a land development application, the Board of Commissioners may by conditional use authorize a further reduction in the buffer area, provided that the following standards are met:

[1] The applicant shall establish by credible evidence that the residential structures on the opposite side of the railroad right-of-way in the area where the proposed buffer area is being reduced shall be no closer than 75 feet from said right-of-way.

[2] The applicant shall establish by credible evidence that the views from and to adjacent properties, including views of and from the rail line, are visually screened by a lesser buffer area or alternative technique, such as the installation of a vegetative/topiary fence, wall or other appropriate design element located on the applicant's property. The applicant for the conditional use shall have the burden of demonstrating that approval of the conditional use is consistent with and promotes the relevant purposes of § 155-219.A. of this article and that the buffer reduction will not adversely affect the public health, safety and welfare specifically with respect to drainage, light, noise, air quality, natural features of the land, and neighborhood aesthetic

characteristics.

(c) The buffer area shall be planted with a variety of high and low level plantings. Where the required buffer is along a railroad right-of-way or along a parking lot or parking structure, a wall or a fence or a similar architectural detail that satisfies the purpose of the buffer requirement may be used in addition to the plantings.

(d) There may not be more than one vehicular point of ingress and egress through the buffer area to any street. Such point of vehicular ingress/egress driveway shall not exceed 22 feet in width.

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Section 5. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXXV, City Avenue District, § 155-219, City Avenue District: Bala Village (BV), subsection E, Density increase, is hereby amended to provide as follows:

§ 155-219. City Avenue District - Bala Village (BV).

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E. Density increase for mixed-use buildings. The purpose of this section is to encourage the provisions of amenities to benefit the public health, safety and welfare, including; adequate open space and public gathering space; efficient roadways; safe bicycle and pedestrian connections and transit facilities; and the preservation of historic resources. The density authorized for mixed-use buildings in this article may be increased as shown on Table 3 and as described in this section, subject to the provisions listed below. The density increases listed below may be cumulative.

TABLE 3: FAR Density Increase

Section	Amenity	Increase Initial Increase	OSTI[1]	Total Increase
§ **155-219E(1)**	Public gathering space (PGS)	0.15	0.05	0.2
§ **155-219E(2)**	~~Residential single-use or M~~mixed-use building ~~where primary use is residential~~	0.25	0.05	0.3
~~**§ 155-219E(3)**~~	~~Mixed-use building or multiple-use development~~	~~NA~~	~~0.05~~	~~0.05~~
§ **155-219E(34)~~(a)~~**	Underground and/or wrapped parking structure	0.5	0.05	0.55
~~**§ 155-219E(4)(b)**~~	~~Wrapped parking~~	~~0.25~~	~~0.05~~	~~0.3~~

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TABLE 3: FAR Density Increase

Section	Amenity	Increase Initial Increase	OSTI[1]	Total Increase
§ **155-219E(~~4~~5)~~(a)~~**	Transit facility improvements	0.05	0.05	0.1
§ **155-219E(5~~6~~)**	Historic preservation	~~0.1~~ 0.2	0.05	~~0.15~~0.25
§ **155-219E(6~~7~~)**	OSTI[1]	0.2	0	0.2
§ **155-219E(7~~8~~)**	Sustainable design (Reserved)	Reserved	Reserved	Reserved
§ **155-219E(8~~9~~)**	Affordable housing (Reserved)	Reserved	Reserved	Reserved

[1]OSTI is an off-site traffic improvement

(1) Density increase for public gathering space. If an application includes public gathering space on the lot, the allowable density may increase by an FAR of 0.15 subject to compliance with the requirements listed below. The 0.15 FAR may be increased by 0.05, to a maximum of 0.2, where the applicant installs off-site traffic improvements as determined by the Township or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-219E(~~7~~6)(a) through (c) below. The public gathering space shall be maintained by the property owner. The amount of density increase shall be noted on the plan and recorded in the deed. No portion of the public gathering space may be dedicated to a specific tenant.

(a) The public gathering space shall be designed and located so as to achieve the purpose of this subsection as stated above and shall comply with the requirements detailed in Subsection E(1)(b) through (f) below.

(b) The maximum number of separate public gathering spaces on any lot is two.

(c) Size of the public gathering space. A minimum of 5% of the lot area shall be used as public gathering space.

(d) Design of public gathering space.

[1] A rain garden shall be provided. No more than 30% of the public gathering space may be devoted to a rain garden use.

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[2] A minimum of 30% of the public gathering space shall be landscaped with trees, shrubs, and mixed plantings with year-round interest.

[3] The hard surface area of the public gathering space shall be paving materials, such as unit pavers, paving stones, or concrete. No more than 20% of the public gathering space may be concrete. If the concrete in a public gathering space is stamped concrete providing the appearance of unit pavers or paving stones, the maximum area of stamped concrete shall be 30%.

[4] The public gathering space shall not be used for parking, loading, or vehicular access.

[5] The area of the public gathering space or the plantings within the public gathering space shall not be used to demonstrate compliance with the greening standards.

[6] Public gathering space may include ornamental fountains, stairways, waterfalls, sculptures, arbors, trellises, planted beds, drinking fountains, benches, awnings, canopies and similar structures.

[7] One bicycle space shall be provided for every 300 square feet of public gathering space.

(e) Location of public gathering space. The public gathering space shall be located where it is visible and accessible from either a public sidewalk or pedestrian connection. The public gathering space shall connect with existing or proposed public gathering spaces on abutting properties, where feasible. Public gathering space may be located along a street and is encouraged to be located between buildings or within an inner or outer court. Location of a public gathering space adjacent to a parking lot is discouraged.

(f) The design and size of the public gathering spaces may be modified, subject to conditional use approval from the Board of Commissioners. In addition to the conditional use standards in § 155-141.2, the following standards apply:

[1] Where a children's play area consisting of playground equipment and/or spray fountains is provided, the minimum area devoted to landscaping and rain gardens may be reduced by up to 30%.

(2) Density increase for ~~single-use residential buildings or m~~Mixed-use buildings~~ or multiple-use developments where the primary use is residential~~.

(a) The allowable density may be increased by a FAR of 0.25.

(b) The allowable density may be increased by an additional FAR of 0.05 up to a total FAR of 0.30 where the applicant installs off-site traffic improvements as determined

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by the Township or contributes to a City Avenue Transportation Services Area fund held by the Township in accordance with § 155-219E(6~~7~~)(a) through (c) below.

~~(3) Density increase for mixed-use buildings or multiple-use developments. The allowable density may be increased by up to a FAR of 0.05 where the applicant installs off-site traffic improvements as determined by the Township or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-219E(7)(a) through (c) below.~~

(3~~4~~) ~~———~~Density increase for underground and/or wrapped parking structures.

~~(a) Underground parking structure.~~ The allowable density may be increased by a FAR of 0.5 for a development where parking ~~is~~is in a new underground and/or wrapped parking structure.

(a) ~~[1]~~ The allowable density may be increased by an additional FAR of 0.05 to a total FAR of 0.55 where the applicant installs off-site traffic improvements as determined by the Township or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-219E(6~~7~~)(a) through (c) below.

~~(b) Wrapped parking structure. The allowable density may be increased by up to a FAR of 0.25 for a development where a minimum of 75% of the facade of the parking structure facing a street is positioned behind a building with an active use complying with the development design standards in § 155-219F. Such active uses may be either directly attached to the parking structure, or separated by an interior court or service lane.~~

~~[1] The allowable density may be increased by an additional FAR of 0.05 to a total FAR of 0.30 where the applicant installs off-site traffic improvements as determined by the Township or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-219E(7)(a) through (c) below.~~

~~(c)~~ (b) Where the required parking is split between an underground and/or wrapped parking structure, ~~an underground parking structure~~ and surface parking, this density increase shall be prorated based on the percentage of the required parking in the underground and/or wrapped parking structure ~~and the wrapped parking structure~~.

(4~~5~~) Density increase for transit facility improvements. The allowable density may be increased by up to a FAR of 0.05 for a development where accommodations to encourage mass transit are provided. Such accommodations include the construction of new bus shelters along a public roadway and/or the installation of electronic mass transit schedule boards. The applicant must submit documentation from the appropriate transit authority

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approving the design and location of the transit facility- improvements ~~to attain the increases listed below~~.

~~(a) The allowable density may be increased by up to a FAR of 0.05 for a development where accommodations to encourage mass transit are provided. Such accommodations include the construction of new bus shelters along a public roadway and/or the installation of electronic mass transit schedule boards.~~

(a)~~[1]~~ The allowable density may be increased by an additional FAR of 0.05 to a total FAR of 0.1 where the applicant installs off-site traffic improvements as determined by the Township or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-219E(6~~7~~)(a) through (c) below.

(5~~6~~) Density Increase for Historic Preservation. The allowable density may be increased by up to a FAR of ~~0.1~~0.2 for a development where a resource listed on the Township Historic Resource Inventory is preserved or renovated in compliance with the Secretary of the Interior's Standards.

(a) The allowable density may be increased by an additional FAR of 0.05 to a total FAR of 0.15 where the applicant installs off-site traffic improvements as determined by the Township or contributes to a City Avenue Transportation Services Area Fund held by the Township in accordance with § 155-219E(6~~7~~)(a) through (c) below.

(6~~7~~) Density increase for off-site traffic improvements. The allowable density may be increased by a FAR of up to 0.2 for a development where the applicant installs off-site traffic improvements as determined by the Township or contributes to a City Avenue Transportation Services Area Fund held by the Township subject to the following provisions:

(a) Roadway improvements shall comply with the 2010 Transportation Capital Improvements Plan prepared for the City Avenue Transportation Services Area. The Township may also authorize improvement of intersections or roadways outside the district that are impacted by the proposed development.

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

[2] Construction cost estimates demonstrating compliance with Subsection E(6~~7~~)(c) below shall be provided by the applicant and approved by the Township Engineer.

(b) When a fee-in-lieu of the improvements is made, the funds shall be administered in accordance with the provisions established in § 135-66 of the Subdivision and Land Development chapter.

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

[1] The off-site traffic improvements or payment in-lieu shall equal $1.65 per square foot generated by the total additional floor area constructed under § 155-219E(1) through (6).

(7~~8~~) Sustainable design. (Reserved)

(8~~9~~) Affordable housing. (Reserved)

Section 6. Nothing in this Ordinance or in Chapter 155 of the Code of the Township of Lower Merion, as hereby amended, shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Chapter 155 prior to the adoption of this amendment.

Section 7. The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Board that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

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

Enacted by the Board of Commissioners of the Township of Lower Merion this ____ day of _____, 2017.

BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF LOWER MERION

_____
Daniel S. Bernheim, President

ATTEST:

_____
Jody L. Kelley, Secretary

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