

ORDINANCE NO. 2019-05

**WESTTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

AN ORDINANCE AMENDING CHAPTER 170, ZONING, OF THE CODE OF WESTTOWN TOWNSHIP BY ADDING NEW DEFINITIONS TO ARTICLE II; AMENDING THE STATEMENT OF INTENT FOR ARTICLE V, A/C AGRICULTURAL/ RESIDENTIAL DISTRICT, §170-500; AMENDING VARIOUS PROVISIONS AND SECTIONS OF ARTICLE IX, FLEXIBLE DEVELOPMENT PROCEDURE; AMENDING ARTICLE XV, GENERAL REGULATIONS, §170-1519, STANDARDS FOR MINIMUM TRACT AND LOT AREA; MAXIMUM DENSITY OF TRACT USAGE; AND AMENDING ARTICLE XX, ADMINISTRATION, §170-2009.D, STANDARDS FOR CONDITIONAL USE APPROVAL.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Westtown Township, Chester County, Pennsylvania, that certain provisions of Chapter 170, Zoning, of the Code of Westtown Township, as amended, be amended as follows:

SECTION 1. Article II, Definitions, §170-201, Definitions, shall be amended to add the following terms and definitions:

BRANDYWINE BATTLEFIELD SWATH

That area of the September 11, 1777 Brandywine Battlefield troop movements and battlefield skirmishes so designated and mapped in correspondence to Westtown Township from the Chester County Planning Commission dated December 7, 2016 and included Appendix A. The Brandywine Battlefield Swath also shall be considered an historical landscape and a scenic landscape or scenic view.

HISTORIC RESOURCE(S)

Any site, structure, ruin, landscape feature or other object included in the Westtown Township Inventory of Historic Resources or listed in the National Register of Historic Places or determined eligible for such listing by the Pennsylvania Historic and Museum Commission.

HISTORICAL LANDSCAPE

The landscape area surrounding any historic resource(s) that contributes to or is visually consistent with the historical character of the designated resource(s) as may be determined by the Township.

SCENIC LANDSCAPE(S)

Those landscapes visible from public rights-of-way at any time of year which are characteristic of the natural heritage and historical settlement of Westtown Township as further described in the Westtown Township Comprehensive Plan.

SCENIC VIEW(S)

Views of Scenic Landscapes as defined herein.

SECTION 2. Article II, Definitions, §170-201, Definitions, shall be amended to revise the following terms and definition to read as follows:

DENSITY, NET RESIDENTIAL

Within a flexible development, the number of residential dwelling units of a single particular type and no others, divided by the area of that portion or portions of the tract to be utilized for that specific dwelling unit type, expressed in units per acre. Calculation of the area of the tract so utilized shall comply with the standards set forth in §170-904.E.

SECTION 3. Article V, A/C Agricultural/Cluster Residential District, §170-500, Statement of Intent, shall be amended to read as follows:

§170-500 Statement of Intent.

In addition to the general goals in the preamble, the purpose, and the community development objectives, it is the purpose of this article to preserve the traditional agricultural and rural residential character of appropriate areas of the Township including scenic views and historical landscapes, notably the area involved in the Battle of Brandywine, September 11, 1777, especially that area denoted as the “Brandywine Battlefield Swath,” and to provide housing opportunities for residential development at low densities consistent with such character, and provide for clustering of housing as an option to preserve and enhance the natural, scenic, and historic character of the landscape.

SECTION 4. Article V, A/C Agricultural/Cluster Residential District, 170-503, Design Standards, Subsection C(3), shall be amended to read as follows:

- (3) Continuous collector road(s) and pedestrian trail(s) shall be developed as part of the subject use or development to provide direct internal through connection(s) between existing collector and/or arterial streets and trail(s), as applicable, and as required by the Board of Supervisors to provide reasonable access to the subject use, enhance community connectivity and improve local mobility. Examples include but are not limited to through collector streets connecting:
- Skiles Boulevard and West Pleasant Grove Road;
 - West Pleasant Grove Road and PA Route 926 at the intersection of Bridlewood Boulevard in Thornbury Township. Chester County;
 - Walnut Hill/Shady Grove Roads to PA Route 926 opposite Cheyney Road in Thornbury Township.

At the discretion of the Board of Supervisors in the context of any conditional use application, as a condition of approval, the Board may require that collector road(s) be developed, in whole or in

part, through the subject property. The design of such road(s) shall support the goal of providing through collector road(s) functioning independently of other streets or roads, existing or proposed. The Board may require that no dwellings have individual driveway access onto a collector road.

SECTION 5. Article IX, Flexible Development Procedure, §170-900, Statement of Intent, Subsection B(4), shall be amended to read as follows:

- (4) Encourage more flexible land development which will respect and conserve natural resources such as streams, lakes, floodplains, groundwater, wooded areas, steeply sloped areas, areas of unusual beauty or importance to the natural ecosystem; and conserve cultural resources including scenic views and historical landscapes, notably the area involved in the Battle of Brandywine, September 11, 1777, especially that area denoted as the “Brandywine Battlefield Swath.”

SECTION 6. Article IX, Flexible Development Procedure, §170-902, Applicability to Base Zoning Districts, Subsection B, shall be amended to read as follows:

- B. Unified tract(s) of land for flexible development shall be of ten (10) acres in size or greater.

SECTION 7. Article IX, Flexible Development Procedure, §170-904, Density Standards, Subsection A, Permitted Base Density and Potential Bonus Density, is deleted in its entirety, and shall be amended to read as follows:

- A. Permitted base density and potential bonus density.
 - (1) Base density. In a flexible development, subject to compliance with all applicable standards, criteria and requirements herein, and as a condition of conditional use approval, the Board of Supervisors may approve a plan that provides for a greater number of dwelling units per acre than would be permitted by the Township zoning regulations applicable to the subject tract(s), as provided in §170-1519.B of this chapter.
 - (2) Bonus density for historic preservation. The maximum density established in accordance with §170-904.A(1) above may be further increased, where approved by the Board of Supervisors subject to conditional use approval, and in accordance with the standards set forth in §170-1519.B(5).

SECTION 8. Article IX, Flexible Development Procedure, §170-904, Density Standards, Subsection C, shall be amended to read as follows:

- C. The following percentages of the gross area of the tract shall be set aside as minimum required open space for the use and benefit of the residents of the development and/or Township, subject to the standards for measurement of minimum required open space set forth in §170-907.A.

Additional open space may be provided: (1) A/C Agricultural/Cluster Residential District: 60%. Where applicable, the minimum required open space shall include at least 85% of any area on the subject property that comprises the Brandywine Battlefield Swath or a portion thereof.

- (2) R-1 Rural-Suburban Residential District, where single-family detached dwellings are provided: 40%.
- (3) R-1 Rural-Suburban Residential District, where twin dwellings are provided: 50%.
- (4) R-1 Rural-Suburban Residential District, where permitted multifamily dwellings are provided: 60%. Where more than one dwelling unit type is provided in the R-1 District, the minimum open space shall be calculated proportionally to the relative proportion of each unit type, as provided in Subsection C(3), (4) and/or (5) above. Additional open space also may be required as a condition of approval of applicable bonus densities.

SECTION 9. Article IX, Flexible Development Procedure, §170-904, Density Standards, Subsection E, Standards applicable to housing sites within a flexible development, Subpart (1)(d), shall be amended to read as follows:

- (d) The acreage set aside for common open space, wastewater management facilities, and rights-of-way of public or private streets shall not be used for computation of net residential density for any residential use. No area used to comply with net density requirements for any particular residential dwelling unit type shall also be used to comply with net density requirements for any other residential dwelling unit type or toward area and bulk requirements for any other permitted use.

SECTION 10. Article IX, Flexible Development Procedure, §170-904, Density Standards, Subsection E, Standards applicable to housing sites within a flexible development, Subparts (2) and (3), are deleted in their entirety, and amended to read as follows:

- (2) Permitted multifamily dwellings shall be designed and constructed in accordance with the following standards:
 - (a) Maximum dimensions. No row of townhouses or single structure containing single-family attached dwellings shall exceed 120 feet in any dimension, nor shall exceed five dwellings in a single structure or continuous row. No other structure containing permitted multifamily dwellings shall exceed 100 feet in any dimension.
 - (b) All buildings within an integrated townhouse development shall be set back from the right-of-way line of any street the development abuts a distance of not less than 100 feet.

- (3) Design standards for all flexible development:
- (a) Maximum impervious coverage. Not more than 25% of the gross area of the tract shall be covered by impervious surfaces. At the time of Conditional Use application, the applicant shall demonstrate that compliance with 25% maximum impervious coverage is feasible, including all residential buildings, common area buildings, roads, parking and access means and any other facilities or impervious surfaces, and in addition demonstrating that included within the 25% tract maximum, are allowances for future accessory structures or other impervious surfaces (patios, pools, etc.) which may be permitted on any individual residential building lot.
 - (b) Streets within the flexible development shall be designed in accordance with the terms of Chapter 149, Subdivision and Land Development; provisions for the maintenance of any private streets shall be an essential part of the plan for development. The Township may, but is not required to, accept dedication of the streets within the flexible development for public use. It may require the posting of security in an amount and form satisfactory to it for the construction of such streets, as set forth in Chapter 149, Subdivision and Land Development.
 - (c) Parking requirements.
 - [1] Except where part of a shared parking arrangement authorized under the terms of Article XVII, all required off-street parking shall be developed within the boundaries of the flexible development tract.
 - [2] Except where individual garages are provided, parking for each dwelling unit shall be provided either at the rear of the unit or shall be grouped into one or more parking areas serving a number of dwelling units. Individual curb cuts shall be permitted only for access to garages attached to individual dwelling units. Other front yard parking and individual curb cuts at the street line for access to parking shall not be permitted except where approved as a condition of Conditional Use approval at the discretion of the Board of Supervisors.
 - [3] Provisions for pedestrian circulation paths from parking areas to the residential dwellings and other buildings they serve shall be provided. These paths shall be constructed of an all-weather surface.
 - [4] No parking space shall be more than 250 feet from an entrance to the residential dwelling or other building it serves.
 - (d) Landscaping: As required by §170-1507 of this chapter.

- (e) Screening: As required by §170-1508 of this chapter.
- (f) Storage: As required by §170-1509 of this chapter.
- (g) Access and traffic control. Routes for vehicular and pedestrian access and parking shall be designed and situated so as to create no nuisances or detractions from privacy. Design of the site shall comply further with the standards in §§170-1510, 170-1511, 170-1512, and 170-1513 of this chapter. Townhouse structures shall be arranged so as to reduce the amount of roads required to serve the development and to provide for an adequate open space design.
- (h) The developer shall make adequate provision for the maintenance of buildings and land within yard areas set aside for condominium development by the organization of a condominium corporation with the responsibility for collection of sufficient levies or fees to pay the cost of such maintenance. Such maintenance may be conducted in conjunction with the requirements of §170-908, where a condominium corporation owns and maintains common open space. Any such terms and provisions shall be consistent with the requirements of the Uniform Condominium Act of 1980.
- (i) All housing shall be designed with regard to topography and natural features of the site in conjunction with the requirements of §170-905.A. The effects of prevailing winds, seasonal temperatures, and hours of sunlight on the physical layout and form of the proposed land use and buildings shall be taken into account.
- (j) To create architectural interest in the layout and character of housing fronting streets, variations in building line shall be encouraged.
- (k) All housing should be sited so as to provide privacy and to ensure natural light in all principal rooms.
- (l) Building height shall be limited to three stories not to exceed 38 feet.
- (m) Routes for vehicular and pedestrian access and parking areas shall be convenient without creating nuisances or detracting from privacy.
- (n) The approximate location and arrangement of buildings and open spaces must be shown on tentative plans so that the Board may review the intensity of land use and serve the public interest by protecting neighboring land uses.
- (o) The following requirements shall apply, except where more stringent criteria apply:

[1] No structure shall be within 30 feet of the curb of access roads.

- [2] No single-family detached dwelling or twin dwelling may be erected within 30 feet of any other structure.
 - [3] The distance between buildings containing multi-family dwellings shall be determined in accordance with the requirements of §170-802.B(7).
 - [4] At its sole discretion, and for purposes of promoting innovative and preferred design of dwellings and structures, the Board may vary the terms of this §170-904.E(3)(o) where deemed appropriate as a condition of Conditional Use approval.
- (p) Single-family detached dwellings, and uses accessory thereto, shall be a minimum of 50 feet, and all other structures shall be a minimum of 100 feet, from the property lines of the tract. Where proposed structures other than single-family detached dwellings will abut tracts containing similar uses, this distance may be reduced to 50 feet. Landscaping shall be required in these boundaries, regardless of the use being proposed. In cases where a one-hundred-foot setback from the tract boundary is required, including where twin dwellings are provided, at least 50 feet shall be a planted buffer conforming to the requirements of §170-1508 and containing no paving.
 - (q) Where permitted, apartment dwellings shall comply with the minimum floor area provisions set forth in §170-802.B(3).

SECTION 11. Article IX, Flexible Development Procedure, §170-905, Design Standards, shall be amended to add new Subsections J and K to read as follows:

J. Article IX, Flexible Development Procedure, §170-904.

- (1) Historical landscapes and scenic views within or across any tract subject to flexible development shall be protected to the greatest extent practicable. As a condition of conditional use approval, the Board may reduce or waive landscape buffering requirements in order to minimize impacts to scenic views otherwise visually accessible to the public.
- (2) Introduced landscaping, utilizing predominantly native vegetation and replicating landscape features characteristic to Westtown and its environs, shall be used to mitigate scenic impacts of development from public roads and neighboring residential properties where such views shall be altered by proposed development, grading, or other improvements necessary to accommodate proposed development. For purposes of this subsection, mitigation shall not require a complete visual screen, where the Township agrees that a filtered or diffuse screen is augmented by other landscaping or site conditions to deflect prominent lines of sight from development impacts or otherwise minimize the visual impacts of development.

K. Stormwater management.

- (1) Stormwater management facilities shall be designed to optimize the capture of stormwater at the sources of generation, maximize recharge to the subsurface groundwater system and minimize discharge to surface water flow. Guidance for stormwater management shall use the most current Best Management Practices (BMPs) such as those promulgated by the Pennsylvania Department of Environmental Protection.
- (2) Collectively, in addition to compliance with the design criteria for stormwater management set forth in Chapter 144 and 149 of the Code of the Township of Westtown, the design of stormwater management facilities across the tract subject to flexible development shall result in groundwater infiltration of stormwater equal in volume to the incremental increase of the two-year storm, pre-development to post-development. For purposes of calculating the pre-development volume of the two-year storm, pre-development land cover conditions shall be assumed to be woodland-good for any area predominantly under cover of trees and meadow-good for any other area, regardless of actual cover conditions. The applicant shall be required to submit soil percolation test results and other credible evidence including a maintenance program satisfactory to demonstrate long-term feasibility of required groundwater infiltration. Where groundwater infiltration of the full incremental volume of the two-year storm is not practicable, the Township may require employment of other means to mitigate potential groundwater impacts.

SECTION 12. Article IX, Flexible Development Procedure, §170-907, Open Space Standards, Subsection A, Use and Design Standards, Subpart 5(e), shall be amended to read as follows:

- (e) Areas used for subsurface infiltration or land application (irrigation) of stormwater and/or treated wastewater, including open storage or settling ponds accessory to infiltration facilities. All such stormwater and wastewater facilities may be physically located in open space areas but shall be excluded from measurement of the minimum required open space as provided in §170-907.A(6) below.

SECTION 13. Article IX, Flexible Development Procedure, §170-907, Open Space Standards, Subsection A, Use and Design Standards, Subpart 6, shall be amended to read as follows:

- (6) All open space used incrementally toward calculation of minimum required open space, as set forth in §170-904.C shall, in addition to full compliance with all other applicable standards herein, fully exclude any existing or proposed impervious surfaces, stormwater management facilities, wastewater treatment and disposal facilities, wetlands, water bodies, watercourses, 50% of any area of prohibitive slope (including created slopes exceeding 25%), and 50% of any lands subject to floodplain regulations.

SECTION 14. Article IX, Flexible Development Procedure, §170-907, Open Space Standards, Subsection A, Use and Design Standards, Subpart 7(a), shall be amended to read as follows:

- (a) Not less than 75 feet in width at any point and not less than 1/2 acre of contiguous area where used toward calculation of minimum required open space. These dimensional standards may be modified by the Board of Supervisors as a condition of Conditional Use approval where the Board is satisfied that the result of such modification is preferable open space design.

SECTION 15. Article XV, General Regulations, S 170-1502, Projections into setbacks and setback exceptions, Subparagraph F shall be amended to read as follows:

- F. Arbors, garden sheds, private garages, private greenhouses, trellises, workshops, and similar accessory structures shall be permitted within side and rear yard areas provided they do not exceed the height, nor 50% of the footprint, of the principal structure, and shall not exceed applicable impervious cover limitations. The side and rear yard setbacks for such structures shall be no less than the height of the accessory structure, irrespective of any otherwise applicable yard requirement of the district. Any wheels attached to a mobile structure must be removed prior to the issuance of any permits.

SECTION 16. Article XV, General Regulations, §170-1519, Standards for Minimum Tract and Lot Area; Maximum Density of Tract Usage, Subsection B, Maximum Density of use on any Tract within a Particular Zoning District, Subparts (2)(a), (b), (c) and (e) shall be amended to read as follows (Subpart (2)(d) remains unchanged):

- (a) A/C District.
 - [1] Standard single-family detached dwelling subdivision: tract area multiplied by 0.5.
 - [2] Flexible development: tract area multiplied by 0.7.
 - [3] Adult community development: tract area multiplied by 1.0.
- (b) R-1 District.
 - [1] Standard single-family detached dwelling subdivision: tract area multiplied by 1.0.
 - [2] Flexible development: tract area multiplied by 1.1.
- (c) R-2 District:
 - [1] Standard single-family detached dwelling subdivision, served by:

- [a] On-site sewage and on-site water: tract area multiplied by 1.0.
- [b] On-site sewage and off-site water, or public off-site sewage and on-site water: tract area multiplied by 1.45.
- [c] Public off-site sewage and off-site water: tract area multiplied by 1.98.
- [2] Single-family semidetached or two-family detached dwellings: tract area multiplied by 2.9.
- (e) M-U District.
 - [1] Residential uses authorized in the R-1, R-2, or R-3 Districts: as specified in Subsections B(2)(d)[1][b], [c], and [d] above.
 - [2] Mobile home park: tract area multiplied by four.

SECTION 17. Article XV, General Regulations, §170-1519, Standards for Minimum Tract and Lot Area; Maximum Density of Tract Usage, Subsection B, Maximum Density of use on any Tract within a Particular Zoning District, Subparts (3)(a) and (c) shall be amended to read as follows (Subpart (3)(b) remains unchanged):

- (a) R-3 District.
 - [1] Professional or business office: tract area multiplied by 0.40 (square feet of floor area)
- (c) C-1 District.
 - [1] Total number of permitted, special exception, or conditional uses: tract area multiplied by 0.5.
 - [2] Total amount of square feet of floor area per use: lot area (as determined by § 170-1519C, below) multiplied by 0.40.

SECTION 18. Article XV, General Regulations, §170-1519, Standards for Minimum Tract and Lot Area; Maximum Density of Tract Usage, Subsection B, Maximum Density of use on any Tract within a Particular Zoning District, shall be amended to add new Subpart (5) to read as follows:

- (5) Bonus Density for Historic Preservation, subject to conditional use approval:
 - (a) Bonus dwelling units for preservation of historic sites and landscapes. One additional dwelling unit may be provided for each two acres comprising a lot (or open space parcel) which contains any Township-, state- or federally designated Historic Resource and where such acreage otherwise

meets all applicable criteria for open space. The use of this bonus shall be limited to no more than four bonus dwelling units for each distinct historic landscape preserved and shall be subject to the following criteria:

- [1] The Township shall approve the configuration of the lot and/or restricted open space created to accommodate preservation of the historic landscape, which shall include, at a minimum, those portions of the property that contain outbuildings or ruins associated with the historical use of the principal historic building(s) and/or those areas of greatest public visibility.
- [2] In order to be eligible for this bonus, the historical setting, including all acreage used to calculate bonus dwelling units, and the principal facades of any historical structures shall be preserved through establishment of a conservation easement acceptable to the Township. Such easement shall be recorded prior to or simultaneously with the recording of approved land development plans and prior to issuance of building permits, as applicable, for any situation where this bonus shall be utilized.
- [3] Land(s) utilized for calculation of this bonus also may be counted toward the calculation of required or bonus open space, where applicable open space, criteria are met.

(b) Additional bonus dwelling units for historic restoration/rehabilitation. Where preservation of historic sites, as provided in §170-1519.B(5)(a) above, includes restoration or rehabilitation of historic structures approved by the Township, one additional dwelling unit may be provided for each 2,000 square feet, or portion thereof exceeding 1,000 square feet, of floor area on all floor levels in the historic sections of such structures which are restored or rehabilitated, subject to the following requirements:

- [1] Eligible structures shall have been used historically as principal residential or agricultural structures or structures accessory to a principal residential use and shall be included or be eligible for inclusion as part of a Township-, state- or federally designated Historic Resource or historic district;
- [2] The applicant shall demonstrate to the satisfaction of the Township, submitting copies of appropriate plans and other documentation as necessary, that such structures have been or shall be restored and/or rehabilitated in accordance with plans prepared by a qualified restoration architect and in general compliance with the U.S Department of the Interior Standards for Rehabilitation of Historic Structures;

- [3] All principal facades of eligible historic structures shall be preserved through establishment of conservation easement(s) acceptable to the Township;
 - [4] This bonus shall not apply if the integrity and scale of eligible historic structures have been or will be altered by additions that overwhelm their historic integrity due to the size of such addition(s) or to the use of modern or inappropriately scaled or proportioned materials, including exterior skins, windows, doors, chimneys, porches, and other features.
- (c) Limitation to use of historic preservation bonus. An historic preservation bonus shall not be applicable if the owner, subdivision/land development applicant, or developer of the subject property shall or has, within three years of the development application period or during actual development, destroyed or demolished any Historic Resource as defined herein without the express approval of the Township.

SECTION 19. Article XX, Administration, §170-2009, Conditional Uses, Subsection D, Standards for Conditional Use Approval, Subpart (1)(h), shall be amended to read as follows:

- (h) The burden of proof shall be upon the applicant, to prove to the satisfaction of the Board of Supervisors by credible evidence, including a Traffic Impact Study addressing the requirements of §149-804.A(1) – (11) and the Pennsylvania Department of Transportation, prepared by a licensed Professional Engineer, that the use will not result in a traffic hazard or traffic congestion within or along existing roads and road intersections adjacent to the tract proposed to be developed, or magnify any existing traffic hazard or traffic congestion within or along existing roads and road intersections adjacent to the tract proposed to be developed. The traffic generated by the development shall be accommodated in a safe and efficient manner on all roads and road intersections internal to the development site, and on all adjacent roads, accesses and road intersections external to the development site. This may include pedestrian and other travel modes as determined appropriate by the Board. The Traffic Impact Study shall identify any and all traffic capacity and traffic safety improvements within or along existing roads and road intersections adjacent to the tract proposed to be developed, and on all roads and road intersections internal to the development site, that are necessary to accommodate the traffic generated by the development. This includes vehicular and non-vehicular connections, as well as facilities to encourage and support non-automotive traffic. As a condition of approval, the Board shall require the applicant to complete and/or fund these traffic improvements, or provide surety for required improvements which may be completed by others.

SECTION 20. If any sentence, clause or section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or validity

shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisor that this Ordinance would have been adopted had such unconstitutional, illegal, invalid sentence, clause, section or part thereof not been included herein.

SECTION 21. All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

SECTION 22. This Ordinance will be effective five (5) days after enactment.

ENACTED AND ORDAINED this _____ day of _____, 2019.

ATTEST:

WESTTOWN TOWNSHIP

Secretary

Scott E. Yaw, Chair

Mike T. Di Domenico, Vice Chair

Carol R. De Wolf, Police Commissioner