ZONING ORDINANCE

Township of Perry
Berks County, Pennsylvania

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Amendment — No. 1-03	November 11, 2003
Amendment — No. 1-05	March 8, 2005
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ARTICLE I

TITLE, APPLICATION, PURPOSE, COMMUNITY DEVELOPMENT OBJECTIVES AND ZONING MAP

SECTION 101 Title and Short Title

101.1 Title:

An Ordinance Establishing Regulations and Restrictions for the Location and Use of Lots, Land, Buildings and Other Structures, the Height, Number of Stories and Size or Bulk of Buildings and Structures, the Density of Population, Off-Street Parking and Similar Accessory Regulations in Perry Township, Berks County, Pennsylvania, and for said Purposes Dividing the Township into Districts and Prescribing Certain Uniform Regulations for Each Such District and Providing for Administrative Enforcement and Amendment of its Provisions in Accordance with the Pennsylvania Municipalities Planning Code, as Amended.

101.2 Short Title:

This Ordinance shall be known as, and may be cited as, the "Perry Township Zoning Ordinance of 1998."

SECTION 102 Application of Ordinance

Except as hereinafter provided, no buildings, structures, land, or parts thereof shall be used or occupied, erected, moved, enlarged or structurally altered unless in conformity with the regulations of this Ordinance.

SECTION 103 Purpose

This Zoning Ordinance, including the regulations and districts as hereinafter set forth, is adopted to promote public health, safety, morals and general welfare and are intended to achieve, among others, the following purposes:

To lessen congestion on the roads and highways;

To secure safety from fire, panic and other dangers;

To promote health and the general welfare;

To prevent overcrowding of the land;

To avoid undue congestion of population;

To facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements;

To encourage the most appropriate use of land;

To preserve natural, scenic and historic values in the environment and preserve forest, wetlands, aquifers and flood plains;

To preserve agricultural land and agricultural activities.

SECTION 104 Community Development Objectives

This Ordinance was prepared with careful consideration being given to, among other things, the character of the districts and its peculiar suitability for particular uses and with a view to conserving the value of building and encouraging the most appropriate use of land throughout the Municipality.

The basis for this Ordinance is the Joint Comprehensive Plan for Leesport Borough, Ontelaunee Township and Perry Township, as adopted by the Governing Body, which enumerates, in detail, the locally desired community development objectives which this Ordinance seeks to accomplish.

SECTION 105 Standards are Minimum

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety and/or general welfare of the residents and inhabitants of the Municipality.

SECTION 106 Official Zoning Map

Perry Township is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matters thereon, is hereby adopted by reference and declared to be part of this Ordinance, together with all future notations, references and amendments.

106.1 Identification of Official Zoning Map

The Official Zoning Map shall be identified by the signature of the Governing Body and attested to by the Secretary of that Body, together with the date of the adoption of the Map.

106.2 Changing the Official Zoning Map

If, in accordance with the provisions of this Ordinance and the

Pennsylvania Municipalities Code, as amended, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Governing Body.

No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. All changes shall be noted by date with a brief description of the nature of the change.

106.3 Location of Official Zoning Map

The Official Zoning Map shall be located in the Municipal Building and shall be the final authority as to the current zoning status of land and water areas in the Municipality, regardless of unofficial copies which may have been made or published from time to time.

106.4 Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Governing Body may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereto. The new Official Zoning Map shall be identified by the signatures of the Governing Body, attested by the Secretary of that Body, and bearing the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted_____ as part of the Ordinance No. _____of Perry Township, Berks County, Pennsylvania.

Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

SECTION 107 **Classes of Districts (See *Ordinance No. 3-05 adopted September 6, 2005, attached hereto — new district added)***

For the purpose of this Ordinance, the Municipality is hereby divided into classes

of districts which shall be designated as follows:

R-A	Rural-Agriculture
R-1	Low Density Residential
R-2	Medium Density Residential
R-3	High Density Residential
C-1	Highway Commercial
C-2	Mixed Use
1-1	Industrial
L-1	Light Industrial

(new district added per Ordinance No. 3-05)

SECTION 108 **Interpretation of District Boundaries**

Where uncertainty exists as to the boundaries of districts, as shown on the Official Zoning Map, the following rules shall apply:

108.1 Designation of District Boundaries

Boundaries indicated as approximately following or perpendicular to the center line of streets, highways, alleys, railroad rights-of-way, streams, rivers, existing lot lines or Municipal boundary lines shall be construed to follow such features or shall be construed to be perpendicular thereto. Where a district boundary line does not follow such a line, its position is shown on said Zoning Map by a specific dimension expressing its distance in feet from a street right-of-way line or other boundary line as indicated and running parallel to said line or by reference to an Ordinance describing such lines.

108.2 Determination of Location of Boundaries

Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or if uncertainty exists as to the true location of a district boundary line in a particular instance, the Zoning Officer shall request the Zoning Hearing Board to render its determination with respect thereto.

ARTICLE II

DISTRICT REGULATIONS

SECTION 201 R-A - Rural-Agriculture ***(See Ordinance No. 1-03 adopted November 11, 2003, attached hereto - new permitted use added)***

201.1 Permitted Uses

a. All forms of agriculture, horticulture, animal husbandry, except intensive agricultural activities pursuant to Section 311;

b. Nurseries and greenhouses, forestry;

c. Roadside stands for the sale of farm products grown on the premises, provided off-road parking space is provided for customers;

d. Cemeteries and necessary incidental structures; ***(new permitted use added per Ordinance No. 1-03)***

201.2 Permitted Accessory Uses — Located on the same lot with the permitted principal use.

a. Private garages or private parking areas;

b. Signs pursuant to Section 304;

c. Home occupations pursuant to Section 302;

d. Customary accessory uses and buildings provided such are clearly incidental to the principal use and do not include any activity commonly conducted as a business.

201.3 Uses Permitted by Special Exception ***(See Ordinance No. 2-01 adopted June 19, 2001, attached hereto - subsection (c) is deleted)***

a. Churches or similar places of worship, parish houses, convents and other housing for religious personnel;

b. Public or private schools, but not including correctional institutions;

c. Intensive agricultural activities; ***(See Ordinance No. 2-01)***

d. Hospitals, orphanages, housing for the aged, convalescent homes for the care of the sick, aged, handicapped, but excluding institutions for the insane, feeble-minded or chemically dependent patients;

e. Accessory use not located on the same lot with the permitted principal use;

Lodges or clubs for hunting, fishing, gunning or other similar recreational purposes;

g. Public and private outdoor recreation areas and facilities—parks (except amusement parks), playgrounds, picnic grounds, swimming clubs, camps, golf courses or country clubs (except driving ranges and miniature golf courses);

h. Public buildings or structures owned or operated by the Township or a Municipal Authority organized by the Township;

i. Single-family detached dwellings pursuant to Section 503.9;

j. Bed and Breakfast use, not to exceed three (3) bedrooms.

201.4 Uses Permitted by Conditional Use. ***(See Ordinance No. 2-01 adopted June 19, 2001 - added subsection (d) — Intensive Agricultural Activity)***

a. Agricultural related business subject to Section 312 of this Ordinance, such as welding shop, butcher shop, farm machinery repair and service, veterinary facilities;

b. Landfills pursuant to applicable State and Federal regulations;

c. Any other uses as determined by the Board of Supervisors to be of the same general character as those uses permitted by Conditional Use;

201.4 Minimum Lot Size *(duplicate 201.4 on original Ordinance)*

Area	- 2 acres
Width	- 200 feet

201.5 Minimum Yard Dimensions

Front Yard	- 75 feet
Each Side Yard	- 25 feet
Rear Yard	- 50 feet

201.6 Maximum Building Coverage; Including Accessory Structures

Maximum Building Coverage	- 10%
Maximum Height (feet)	- 35
(stories)	- 2-1/2

SECTION 202 R-1 — Low Density Residential *(See Amendment 1-03 New Map and Classes — Appendix 2)*

202.1 Permitted Uses (See *Ordinance No. 1-03 adopted November 11, 2003, attached hereto — new permitted use added)*

a. Single-family detached dwellings;

b. All forms of agriculture, horticulture. animal husbandry, except intensive agricultural activities pursuant to Section 311;

c. Nurseries and greenhouses;

(new permitted use added per Ordinance No. 1-03)

202.2 Permitted Accessory Uses — Located on the same lot with the permitted principal uses

a. Private garages or private parking areas;

b. Signs pursuant to Section 304;

c. Home occupations pursuant to Section 302;

d. Other customary accessory uses and buildings, provided such are clearly incidental to the principal use and do not include any activity commonly conducted as a business.

202.3 Uses Permitted by Special Exception

a. Hospitals, orphanages, convalescent homes for the care of the sick, aged, handicapped, but excluding institutions for the insane, feeble-minded or chemically dependent patients;

b. Public schools, parochial schools, private schools which do not provide corrective, rehabilitation or remedial care or instruction, public libraries, police or fire stations, or public buildings or structures owned or operated by the Township or a Municipal Authority organized by the Township;

c. Public or private parks and playgrounds;

d. Churches or similar places of worship;

e. Accessory uses not located on the same lot as the principal use;

f. Clustering pursuant to Section 503.8.

202.4 Minimal Lot Size and Width

Area:	Lot Area	Lot Width
With public water and public sewer	20,000 sq. ft.	80 feet
With public water only	30,000 sq. ft.	100 feet
With on-lot water and sewage disposal	43,560 sq. ft.	100 feet

202.5 Minimum Yard Dimensions

Front Yard	- 50 feet
Each Side Yard	- 15 feet
Rear Yard	- 50 feet

202.6 Maximum Building Coverage, Including Accessory Structures

Maximum Building Coverage	-20%
Maximum Height (feet)	- 35
(stories)	- 2-112

SECTION 203 **R-2 — Medium Density Residential *(See Ordinance No. 1-03 adopted November 11, 2003 — New Map — Appendix 2) (See Ordinance No. 1-05 adopted March 8, 2005, attached hereto — New Map)***

203.1 Permitted Uses ***(See Ordinance No. 1-03 — new permitted use***

added)

a. Single-family detached dwellings;

b. Single-family semi-detached;

b. Two family detached dwellings ***(duplicate b in original Ordinance);***

c. Public parks and playgrounds;

d. Churches or similar places of worship;

e. Public schools, parochial schools, private schools;

f. Public buildings or structures owned or operated by the Township or Municipal Authority organized by the Township;

g. Public libraries, police and fire stations; ***(new permitted use added per Ordinance No. 1-03)***

203.2 Permitted Accessory Uses — Located on the same lot with the Permitted Principal Use

a. Private garages or private parking areas;

b. Signs pursuant to Section 304;

c. Home occupations pursuant to Section 302;

d. Customary accessory uses and buildings, provided such are clearly incidental to the principal use and do not include any activity commonly conducted as a business;

203.3 Uses Permitted by Special Exception

a. Professional offices;

b. Clustering pursuant to Section 503.8.

203.4 Minimum Lot Size and Width

	Per Dwelling Unit (sq. ft.)	
	Single Family	Two Family
Area:		
Public water and public sewer -	10,000	7,500
Public water or public sewer -	15,000	10,000
On-lot water and sewage disposal -	30,000	17,500
Width:	80 feet	100 feet

203.5 Minimum Yard Dimension

Front Yard	- 30 feet
Each Side Yard	- 15 feet
Rear Yard	- 25 feet

203.6 Maximum Building Coverage and Height

Maximum Building Coverage, including accessory structures	- 20%
Maximum Building Height (feet)	- 35
(stories)	- 2-1/2

SECTION 204 **R-3 - High Density Residential** ***(See Ordinance No. 1-03 adopted November 11, 2003 - New Map - Appendix 2) (See Ordinance No. 3-05 adopted September 6, 2005)***

204.1 Permitted Uses ***(See Ordinance No. 1-03 - new permitted use added)***

a. Garden apartments;

b. Town Houses;

b. Public or private schools, parks, playgrounds ***(duplicate b in original Ordinance);***

c. Churches or similar places of worship;

d. Public buildings or structures owned or operated by the Township or a Municipal Authority organized by the Township;

204.2 Accessory Uses

a. Private garages or parking areas pursuant to Section 305;

b. Private recreation areas;

c. Private swimming pools pursuant to Section 303.2;

d. Signs pursuant to Section 304;

e. Customary accessory uses and buildings provided such are clearly incidental to the principal use and do not include any activity commonly conducted as a business;

204.3 Uses Permitted by Conditional Use

a. Mobile Home Parks pursuant to Section 410.1.

204.4 Minimum Lot Size, Lot Width and Lot Area per Dwelling Unit ***(See Ordinance No. 3-05)***

a. Minimum Lot Area per dwelling unit (sq. ft.)

Garden Apartment:	
With public water and sewer	- 3,000
Without public water and sewer	(not permitted)
Town House:	
With public water and sewer	- 6,000 ***(See Ordinance No. 3-05)***
Without public water and sewer	(not permitted)

b. Minimum Lot Size (acres) 5

c. Minimum Lot Width (feet) 300 ***(See Ordinance No. 3-05)***

204.5 Minimum Yard Dimensions

Front Yard	- 60 ft.
Each Side Yard	- 35 ft.
Rear Yard	- 35 ft.

204.6 Maximum Building Height and Coverage ***(See Ordinance No. 3-05)***

Maximum Building Height (feet) - 35

(stories) 3

Maximum Building Coverage, including accessory structures - 15% *(See Ordinance No. 3-05)*

204.7 ***(Number omitted in original Ordinance)***

204.8 Use and Design of Yards

a. Required yards shall not be used for garages, drives, parking or play areas;

b. Garages, driveways parking or play areas shall not be located closer than thirty-five (35) feet to a main wall or fifteen (15) feet to a secondary wall of a main building.

204.9 Supplementary Regulations

a. Access and Service: Required automobile parking may be provided on the lot, as carports, as an integral part of a town house, or as common parking facilities for a group of town houses or garden apartments, with such deed restrictions as are necessary to determine ownership and maintenance of common parking facilities.

Design: No more than eight (8) dwelling units shall be contained in one garden apartment building or a group of town houses.

Yards: Front and rear yard setbacks may be considered as an average of all the dwelling units in a single building to allow for a varied front and rear yard treatment.

Rear Yards: A fenced and enclosed private patio and garden area shall be provided for each garden apartment and town house unit with provision made for access to any additional rear yard or any common open space located in the rear yard.

Landscaping: At least 10% of the required front yard shall be landscaped.

b. Parking Facilities

1. Number of spaces — Off-street parking facilities,

whether garage or on-lot, shall be provided on the premises at the rate of two (2) spaces for each dwelling unit.

2. Location — Required parking shall be provided on the same lot as the building served.

   a. Parking areas shall not be designed or located so as to require or encourage cars to back onto a public street in order to leave the lot.

3. Design — The following minimum design standards for parking areas and aisles shall apply.

   a) Parking lot dimensions shall be no less than those listed in the following table:

Angle of Parking	Parking Stall Width	Parking Stall Depth	Aisle Width One-Way	Aisle Width Two-Way
90 degrees	10'	20'	20'	24'
60 degrees	10'	21'	18'	21'
45 degrees	10'	20'	15'	18'
30 degrees	10'	18'	12'	15'
Parallel	8'	22'	12'	18'

   b) Entrance and exit ways shall have a minimum width of 12 feet for each line of traffic entering or leaving the site but shall at no time exceed 30 feet in width at the street line.

   c) All dead-end parking lots shall be designed to provide sufficient back-up area for the end stalls of the parking area.

   d) Evergreen plantings shall be provided of sufficient height and density to screen off-street parking from public street view and from adjoining residential districts. A planting plan specifying type, size and location of existing and proposed planting material shall be submitted with the application for the Zoning Permit.

   e) All access ways and parking areas shall be suitably paved with concrete or macadam covering.

f) Entrance and exit ways and interior access ways shall be designed so as to prevent the blocking of vehicles entering or leaving the site.

c. Sewage and Drainage

1. Garden Apartments and Town Houses shall not be permitted in areas not served by a municipal water and sewer system and each dwelling in such development shall be connected to such water and sewer system.

2. A storm run-off and drainage system shall be designed and constructed in accordance with the Municipality's Storm Water Management Ordinance.

d. Lighting

Lighting for buildings, access ways and parking areas shall be so arranged as to not reflect toward public streets or cause annoyance to building occupants or surrounding property owners or residents.

e. Storage and Trash and Rubbish

Exterior storage areas for trash and rubbish shall be satisfactorily screened with evergreen plantings and all trash and rubbish shall be contained in air-tight, vermin-proof containers. Interior storage areas for trash and rubbish shall at all times be kept in an orderly and sanitary fashion.

SECTION 205 **CA Highway Commercial** ***(See Ordinance No. 1-03 adopted November 11, 2003 — new Map and Appendix 2)***

205.1 Permitted Uses

a. Retail stores or shops for the conduct of any retail business or service establishments, except as prohibited by Section 309 of this Ordinance;

b. Business, professional or government offices, office buildings and banking, savings and loan offices;

c. Restaurants, cafes or similar places serving food and/or beverages;

d. Theatres or motion picture theaters, except drive-ins ***(now "drive-in theaters" - Ordinance No. 1-03);***

e. Bowling Alleys;

f. Hotels or motels;

205.2 Permitted Accessory Uses — Located on the same lot with the permitted principal use

a. Off-street parking areas pursuant to the provisions of Section 305;

b. Signs pursuant to Section 304;

c. Customary accessory uses and buildings; provided such are clearly incidental to the principal use;

205.3 Uses Permitted by Special Exception

a. Motor vehicle service stations and drive-in establishments ***(delete "and drive-in establishments" - Ordinance No. 1-03);***

b. Automobile, mobile home, modular home or camper sales and service establishments;

c. Car washes;

d. Funeral homes;

e. Hospitals;

f. Mobile telephone, microwave, television and radio transmission towers, per the regulations set forth in Section 503.10;

g. Wholesale business;

h. Accessory uses not located on the same lot with the permitted principal use;

i. Automobile repair, tire repair and automobile body repair; Any other uses as determined by the Zoning Hearing Board

to be of the same general character as the permitted uses.

205.4 Prohibited Uses

Residential and industrial uses.

205.5 Minimum Lot Size ***(See Ordinance No. 1-03 adopted November 11, 2003)***

20,000 sq. feet ***(amended by Ordinance No. 1-03)***

205.6 Minimum Yard Dimensions

Front Yard	-25 ft.
Each Side Yard	- 20 ft.
Rear Yard	-25 ft.
Distance between Buildings	- 30 ft.

205.7 Maximum Building Coverage, including Accessory Structures

Maximum Building Coverage	- 35%
Maximum Building Height	- 35 feet
Maximum Paved Area	- 45%

205.6 Supplementary Regulations ***(error in numbering in original Ordinance) (See Ordinance No. 1-03 adopted November 11, 2003)***

a. Off-Street Parking

1. All outdoor parking spaces and access drives shall be at least fifteen (15) feet from exterior lot lines ***(amended by Ordinance No. 1-03)***

2. Parking areas shall not be designed or located so as to require or encourage cars to back onto a public street in order to leave the lot.

b. Design — The following minimum design standards for parking areas and aisles shall apply:

1. Parking lot dimensions shall be not less than those

listed in the following table:

Angle of Parking	Parking Stall Width	Depth	Aisle Width One-Way	Two-Way
90 deg r·	10·	20'	20'	94'
60 degrees	10'	21'	18'	21'
45 degrees	10'	20'	15'	18'
30 degrees	10'	18'	12'	15'
(amended Ordinance No. 1-03)				
Parallel	8'	22'	12'	18'

Entrance and exit ways shall have a minimum width of twelve (12) feet for each lane of traffic entering or leaving the site but shall at no time exceed thirty (30) feet in width at the street line.

3 All dead-end parking lots shall be designed to provide sufficient back-up area for the end stalls of the parking area.

4. All access ways and parking area shall be suitably paved with a permanent concrete or macadam covering.

5. Entrance and exit ways and interior access ways shall b designed so as to prevent the blocking of vehicles entering or leaving the site.

205.8 Access and Traffic Controls *(See Ordinance No. 1-03 adopted November 11, 2003)*

All means of ingress or egress from the shopping center to any public street or State highway shall be located at least two hundred (200) feet from any other intersecting street or streets and shall be designed to conduct traffic in a safe manner. The developer shall be responsible for the purchase and erection of any necessary traffic control devices and the construction of additional acceleration lanes as may be required by PennDOT or by the Township Supervisors. *(replaced by Ordinance No, 1.03)*

205.9 Interior Circulation

Interior access ways shall be designed so as to prevent the blocking of vehicles entering or leaving the site. Areas provided for loading or unloading of trucks and/or other vehicles or for servicing of shops for rubbish collection or other services shall be adequate in size and shall be so arranged that they may be used without blocking or interfering with interior circulation and parking facilities.

205.10 Lighting

Lighting for buildings, access ways and parking areas shall be arranged in such a manner that they will not reflect toward any interior property lines or public highways.

205.11 Shopping Cart Storage

Establishments furnishing carts or mobile baskets shall be provided definite areas within parking areas for the storage of said carts. Storage areas shall be clearly marked and designated for the storage of shopping carts and/or mobile baskets.

205.12 Screening

a. All property lines abutting residential districts, along the sides or rear property, shall be appropriately screened by fences, walls or year-round planting and/or other suitable enclosures of a minimum height of four and one-half (4-1/2) feet and a maximum height of seven (7) feet.

b. If trees, evergreen hedges or other types of year-round plants are used, a landscaped area shall be provided at least five (5) feet in width along the entire interior property lines.

205.13 Storage of Trash or Rubbish

Storage areas for trash and rubbish shall be completely screened and all organic rubbish shall be contained in air-tight, vermin-proof containers.

205.14 Signs

Signs shall conform to Section 304 of this Ordinance.

SECTION 206 C-2 — Mixed Use

206.1 Permitted Uses **(See *Ordinance No. 1-03 adopted November 11, 2003)***

a. Single-family dwellings;

b. Single-family semi-detached dwellings;

c. Two family detached dwellings;

d. Retail stores or shops for the conducting of any retail business;

e. Business, professional or government offices and office buildings;

f. Banks, savings and loan associations;

g. Restaurants, cafes, taverns or other places serving food and beverages;

h. Theatres or motion picture theaters, except drive-ins ***(now "drive-in theaters" - Ordinance No. 1-03);***

206.2 Permitted Accessory Uses — Located on the same lot with the permitted principal use.

a. Off-street parking areas pursuant to the provisions of Section 305;

b. Signs pursuant to Section 304;

c. Customary accessory uses and buildings, provided such are clearly incidental to the principal use.

206.3 Uses Permitted by Special Exception

a. Motor vehicle service stations;

b. Car washes;

c. Accessory uses not located on the same lot with the permitted principal use;

d. Wholesale business;

e. Any other uses as determined by the Zoning Hearing Board to be of the same general character as the permitted uses.

206.4 Minimum Lot Size ***(See Ordinance No. 1-03 adopted November 11, 2003)***

Area: (per dwelling unit or commercial establishment)

Public water and public sewer	20,000 sq. feet
Public water only	30,000 sq. feet

(amended by Ordinance No. 1-03)

On-lot water and sewage	**1** acre

(See Ordinance No. 1-03 for additional text)

206.5 Minimum Yard Dimensions

Front Yard	- 25 ft.
Each Side Yard	-20 ft.
Rear Yard	-25 ft.
Distance between Buildings	-30 ft.

206.6 Maximum Building Coverage, Including Accessory Structures

Maximum Building Coverage	- 35%
Maximum Building Height	- 25 feet
(amended by Ordinance No. 1-03)	
Maximum Paved Area	- 45%

SECTION 207 1.1 **- Industrial**

207.1 Permitted Uses

a. Heavy commercial uses, which shall be carried on in a completely enclosed building, except for off-street parking and loading facilities, include wholesale business, storage and warehousing establishments, truck and freight terminals, delivery and distribution centers, mechanical and vehicle equipment repair establishments and dry cleaning and dyeing plants;

b. Heavy commercial uses which do not require complete enclosure in a building, including building materials, new and used machinery storage and sales, vehicle and trailer sales and storage, farm equipment and construction machinery establishments.

c. General industrial uses which shall be carried on in a completely enclosed building and which include the storage, manufacture, assembly, fabrication, packing, testing or other handling of products from raw materials, or from other previously prepared materials, but not including retail activities.

d. All main and accessory uses permitted in the Industrial District must comply with existing laws, rules, regulations and ordinances affecting environmental health, pursuant to

Section 301, and the following requirements contained herein. Environmental health includes, but is not limited to, such areas as air and water pollution, solid waste disposal, noise and vibration problems, and other such factors affecting man or his environment.

1. All liquid wastes, be they discharged via municipal sewer systems, private outlets to a receiving stream, or by subsurface injection, must meet all requirements of the Pennsylvania Sanitary Water Board for such parameters as temperature, pretreatment, quality of effluent, and volume prior to discharge.

2. All sources of air pollution must comply with rules and regulations as defined and established by the Air Pollution Commission of the Commonwealth of Pennsylvania, Department of Environmental Resources, or as modified by additional restrictions imposed by local or regional health departments.

3. Solid Waste disposal practices for garbage and refuse material must be in accordance with procedures approved by the Pennsylvania Department of Environmental Resources.

4. Vibration shall not be perceptible, except for not more than two minutes per hour from 7:00 A.M. to 7:00 P.M., beyond the lot line.

5. No noise shall exceed accepted community noise levels, or exceed an audible level at the property line greater than the average intensity of street traffic at the front lot line. Objectionable noises due to intermittence, beat, frequency or shrillness shall be muffled.

6. Glare and heat from any process shall be controlled so as not to produce glare which is visible, or objectionable heat, beyond the property line of the lot on which the operation is located. Direct glare from incandescent exposed lights shall not be visible from adjoining streets or properties.

7 All raw materials, fuel, machinery and equipment used in the operations shall be enclosed within a structure or screened by a substantially solid wall or fence of

such design and height to conceal all operations and materials from the view of an observer standing at grade level of an existing residential district line or public street.

8. Storage, handling and use of flammable liquids or materials shall comply with existing fire protection codes of the Township and be readily accessible to fire fighting equipment.

207.2 Permitted Accessory Uses — Located on the same lot with the permitted principal use

a. Dwelling for watchman or caretaker;

b. Off-street parking facilities;

c. Signs pursuant to Section 304;

d. Restaurants, cafeterias or recreational facilities used for employees only;

e. Accessory uses and structures to the manufacturing uses permitted.

207.3 Uses Permitted by Special Exceptions

a. Junk yards;

b. Quarries;

c. Mobile telephone, microwave, television and radio transmission structures, per regulations set forth in Section 503.10;

d. Accessory uses not located on the same lot as the principal use.

207.4 Prohibited Uses

a. Residential development or the construction of dwellings on existing lots or portions of lots zoned industrial;

b. Public buildings;

c. Any building for retail business or service, except where

incidental to the principal permitted use.

20T5 Minimum Lot Size

Area:

With Public sewer	–1 acre
Without Public sewer	- 2 acres

207.6 Minimum Yard Dimensions

Front Yard	-60 ft.
Each Side Yard	–40 ft.
Rear Yard	–40 ft.
Maximum Building Coverage, including Accessory Structure	- 20%
Maximum Building Height	- 35 feet

SECTION 208 **L-I Light Industrial District**

208.1 Permitted uses. Land and buildings in an **L-1** District may be used for the following purposes:

a. Professional, administrative and business office buildings.

b. Wholesaling, warehousing and distribution activities and facilities.

c. Storage, sale and distribution of building materials and ail other non-hazardous materials.

d. Printing and publishing activities.

e. Research, engineering, testing and related activities.

f. Municipal use.

g. Recreational facilities.

h. Truck terminals,

i. Mini-warehouses and storage facilities.

Accessory uses and structures to the above permitted uses when on the same lot as the permitted use.

208.2 Uses Permitted by Special Exception

The following uses and their accessory uses may be permitted when authorized as a special exception by the Zoning Hearing Board, all subject to the provisions of Sections 502 and 503.

a. Any use of a light manufacturing and commercial wholesale nature, which shall be carried on in a completely enclosed building, including

1. Processing and packaging of foods and beverages, excluding abattoirs;

2. Processing and packaging of cosmetics, drugs, pharmaceutical and biologicals;

3. Manufacturer of beverages, clothing and other textile products, cosmetics, luggage, perfumes, plastic products, rubber products, toys, sporting equipment wood and paper products and precision instruments and the like;

4. Light metal processing, including finishing, grinding, polishing, heat treating and stamping;

5. Manufacture of products from previously prepared materials such as bone, canvas, cellophane, cork, leather, felt, hair, glass and plastic;

The above light manufacturing, commercial and wholesale uses subject to special exception shall further be subject to the provisions and limitations as contained in Section 207.1d. 1 through 8.

b. Any C-2 permitted use referenced in Section 207.1, and any use permitted by Special Exception under 207.3, subject, however, to the minimum lot, yard and height provisions and limitations as specified in Section 209.3.

208.3 Area, Yard and Height Requirements

Maximum Permitted

Building Height	- 35 feet
Maximum Building Coverage	- 50%
Paved Area	- 50%
Total of Building and Paved Area Not to Exceed	- 80%

Minimum Requirements

Lot Size — with public sewer	- 1 acre
Lot Size — without public sewer	- 2 acres
Lot Width:	
At Street Line	- 150 feet
At Building Setback Line	- 150 feet
Building Setback	- 35 feet
Improvement Setback	- 10 feet
Side Yard:	
Total	- 40 feet
One Side	- 20 feet
Rear Yard	- 20 feet
Area Not Paved Nor Covered by Buildings	- 20%

208.4 Screening

a. All property within an L-1 Light Industrial District which abuts a residential district or districts, including property across the street from residential district, shall be appropriately screened by fences, walls, or year-round planting and/or other suitable enclosures of a minimum height of four and one-half (4-1/2) feet and maximum height of seven (7) feet, except for year-round planting which shall have no maximum height limitation.

b. If trees, evergreen hedges or other types of year-round plants are used, a landscaped area shall be provided at least five (5) feet in width along the entire interior property lines that abut the residential district.

(See Ordinance No. 3-05 adopted September 6, 2005 - add new Section 209 - Appendix 2 and Appendix 3)

ARTICLE III

SUPPLEMENTARY REGULATIONS

SECTION 301 Additional Regulations for All Districts

301.1 Visibility at Intersection

On a corner lot nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2-1/2) and ten (10) feet above the centerline grades of the intersecting streets in the area bound by the street center line of such corner lots and a line joining points along said street center line, at a distance of seventy-five (75) feet from the point of intersection, except for street and traffic signs.

301.2 Fences, Walls and Hedges

Notwithstanding other provisions of this Ordinance, fences, walls and hedges may be permitted in any required yard or along the edge of any yard, provided that no fence, wall, or hedge along the sides or front edge of any front yard shall be over two and one-half (2-1/2) feet in height. Ornamental fences exceeding 2-1/2 feet shall be permitted provided that such fences contain an open area of not less than seventy-five (75) percent.

301.3 Erection of More than One Principal Structure on a Lot

In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

301.4 Exceptions to Height Regulations

The height limitations contained in the District Regulations do not apply to barns, silos, spires, belfries, cupolas, flagpoles, communication transmission towers, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

301.5 Structures to have Access

Every building hereafter erected or moved shall be on a lot adjacent to a public street or a private street approved by the Governing Body. All structures shall be so located on lots as to provide safe

and convenient access for servicing, fire protection and required off-street parking.

301.6 Corner Lot Restriction

On every corner lot there shall be provided on the side street a side yard equal in depth to the required front yard on said side street by the prevailing zoning district.

301.7 Lots in Two Districts

Where a district boundary line divides a lot in single or joint ownership of record at a time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.

301.8 Lot Area and Lot Width for Lots Not Served with Public Water and/or Sanitary Sewers

Where a lot is not served by a public water supply and/or sanitary sewage system and the Municipality's Subdivision and Land Development Ordinance or other State or local ordinance in force require a higher standard for lot area or lot width than this Ordinance, the more restrictive regulations of such other ordinance or regulation shall apply.

301.9 Front Yard Exception

When an unimproved lot is situated between two improved lots with front yard dimensions less than those required for the district, the front yard required may be reduced to a depth equal to the average of the two adjoining lots. However, in no case shall the front yard be reduced by more than 50% of the required front yard.

301.10 Projections into Yards

The following projections shall be permitted into required yards and shall not (be) considered in the determination of yard requirements or building coverage.

a. Terraces or patios, provided that such terraces or patios are unroofed or otherwise enclosed and are not closer than five (5) feet to any adjacent property line.

b. Projecting architectural features — bay windows, cornices,

eaves, fireplaces, chimneys, window sills, or other architectural features — provided that any single feature does not exceed five (5) square feet in external area.

c. Uncovered stairs and landings, providing such stairs or landings do not exceed three feet six inches (3'-6") in height.

d. Open balconies or fire escapes provided such balconies or fire escapes are not supported on the ground and do not project more than five (5) feet into any yard nor closer than three (3) feet to any adjacent property line.

e. Lamp posts, walkways, driveways, retaining walls, steps or air conditioning units.

301.11 Restrictions on Air Pollution

All sources of air pollution must comply with Rules and Regulations as defined and established by the Air Pollution Commission of the Commonwealth of Pennsylvania, Department of Environmental Protection, or as modified by additional restrictions imposed by local or regional health departments. The term "air pollution" shall refer to the presence in the outdoor atmosphere of any form of contaminant, including, but not limited to, the discharging from stacks, chimneys, openings, buildings, structures, open fires, vehicles, processes, or any other source of any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic or radioactive substances, waste or any other matter in such place, manner, or concentration inimical or which may be inimical to the public health, safety, or welfare or which is, or may be injurious to human, plant or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property.

301.12 Solid Waste Disposal

All methods and practices of solid waste or refuse disposal shall be in compliance with Act 241 (Pennsylvania Solid Waste Management Act) of the Pennsylvania Department of Environmental Protection, or as specified by additional local ordinances and zoning requirements. Solid wastes are defined to mean garbage, refuse and other discarded materials, including, but not limited to, solid and liquid waste materials resulting from industrial, commercial, agricultural and residential activities.

301.13 Requirements for Sewage and Liquid Waste Disposal

All sewage and liquid waste disposal practices must be in accordance with rules and regulations of the Pennsylvania Department of Environmental Protection. The requirements are such that all new facilities or major revisions to existing waste treatment or disposal facilities must also be properly licensed as called for by the Department of Environmental Protection.

SECTION 302 Home Occupation Regulations

In any residential district, all dwelling units or accessory structures with direct access to a public street may be used for the practice of a home occupation, provided such occupation is clearly incidental or secondary to the use of the property as a residence, and further provided that the use of the dwelling or the accessory structure does not change the character thereof or have any exterior evidence of such secondary use other than a small nameplate.

302.1 Standards

The professional office of a doctor of medicine, surgeon, dentist, architect, lawyer, accountant, insurance agent, tax collector, engineer, music or voice instructor, dressmaker, milliner or seamstress or other professional occupations with similar operating characteristics shall be deemed to be a "home occupation" provided that the principal person so employed is a resident of the dwelling. Home occupations shall be limited to the employment of not more than one (1) paid or unpaid assistant at any one time.

All parking shall be off-street, and two (2) off-street parking spaces, in addition to those required of the residence, shall be required.

A home occupation shall not occupy more than twenty-five (25) percent of the total floor area of the dwelling unit.

SECTION 303 Accessory Uses or Structures

303.1 No accessory building shall be erected in any required front or side yard and no separate accessory building shall be erected within fifteen (15) feet of any other building.

303.2 Private non-commercial swimming pools, which are designed to contain a water depth of twenty-four (24) inches or more, must be located in a rear or side yard only. Inground swimming pools must be entirely enclosed with a permanent continuous fence not less than four (4) feet in height. Above ground swimming pools shall

have a ladder or stairway which can be removed or secured when not in use in order to prevent young children from entering the pool. All pools shall be not less than fifteen (15) feet from side and rear property lines, nor occupy more than twenty-five (25) percent of the minimum required side or rear yard.

303.3 Private tennis courts shall be permitted within side or rear yards provided that such facility shall not be less than fifteen (15) feet from side or rear property lines.

303.4 Patio, paved terraces, or open porches shall be permitted in all yards provided that no impermeable surface shall be within five (5) feet of any property line.

303.5 No non-residential activities shall be permitted in any residential zone except those permitted by Home Occupation Regulations, Section 302 of this Ordinance, and specifically stated in the applicable Zoning District.

303.6 Storage sheds used exclusively for the storage of household items and/or garden tools or equipment, may be erected within five (5) feet of the rear or side property line; provided, however, that such storage shed shall not exceed twelve (12) feet in width, twelve (12) feet in depth and twelve (12) feet in height. Furthermore, no more than two (2) storage sheds shall be permitted on any single lot which are erected within five (5) feet of the side and rear property line, as provided for under this subsection.

SECTION 304 **Sign Regulations** ***(See Ordinance No. 1-03 adopted November 11, 2003 — new subsection added)***

304.1 Area of Sign

The area of a sign shall be constructed to include all lettering, wording and accompanying designs and symbols, together with the background, where open or enclosed, on which they are displayed, but not including any supporting framework and bracing which is incidental to the display itself. Where the sign consists of individual letters or symbols attached to or painted on a surface of a structure or building, the area shall be considered to be the smallest rectangle which can be drawn to encompass all of the letters and symbols.

Double face signs shall be considered two signs.

304.2 Permitted Signs

In Zoning Districts, the maximum permitted size of signs and type of signs shall be in accordance with the following regulations:

a. All Districts

1. Official traffic or directional signs and other official Federal, State, County, or Municipal government signs.

2. Temporary signs announcing a campaign, drive, or event of a civic, philanthropic, educational, or religious organization, provided such sign shall not exceed twelve (12) square feet in area and shall be removed immediately upon the completion of the campaign, drive, or event.

3. Business signs offering the sale or rental of the premises upon which the sign is erected, provided that the area of any such sign shall not exceed six (6) square feet and not more than one (1) such sign shall be placed on the property unless such property fronts on more than one (1) street, in which case one (1) sign may be erected on each street frontage.

4. Temporary signs of contractors, developers, architects, engineers, builders and artisans, erected and maintained on the premises where the work is being performed, provided that the area of such sign shall not exceed twelve (12) square feet, and provided that such sign shall be removed upon completion of the work.

5. Trespassing signs, signs indicating the private nature of a road, driveway, or premises, signs controlling fishing or hunting on the premises, provided that the area of such sign shall not exceed four (4) square feet.

b. Rural Agriculture and Residential Districts

1. Home occupation or name sign displaying the name and address of the occupant or the profession or activity of the occupant of a dwelling, provided that not more than one (1) such sign shall be erected for each permitted use or dwelling and provided that the area of

such sign shall not exceed two (2) square feet and provided that such sign shall be fixed flat on the main wall of such building or may be erected in the front yard, but not within ten (10) feet of a street right-of-way line. Such sign may be interior lighted in the cases of the office of a physician or dentist only.

2. Signs, bulletins, announcement boards or identification signs for schools, churches, hospitals, sanitariums, clubs, multi-residents or other principal uses and buildings, other than dwellings on the same lot therewith, for the purpose of displaying the name of the institution and its activities or services, provided that the area of any such sign shall not exceed thirty-six (36) square feet and not more than **one** (1) such sign shall be erected on any one street frontage.

3. Signs offering the sale of farm products, nursery products, or livestock produced or raised on the premises in the Rural-Agricultural provided that the area of any such sign shall not exceed thirty-six (36) square feet and not more than **one (1)** such sign shall be erected on any one street frontage.

4. Signs denoting membership in agricultural associations, cooperatives, or indicating specialization in a particular breed of cattle, hogs, etc., or in a particular hybrid or strain of plant in the Rural Agriculture District, provided that such sign is limited to six (6) square feet and not more than one (1) sign on any one street frontage.

5. Directional signs, not to exceed two (2) square feet each, erected within a residential subdivision or land development project directing persons to a rental office or sample unit.

6. Permanent identifying signs for the purpose of indicating the name of a residential subdivision or land development project and for the purpose of identifying individual buildings. Not more than one (1) sign for each entrance to the subdivision or project from a public street shall be permitted and no such sign shall exceed ten (10) square feet in size. Signs to identify individual buildings in a multi-family project shall not exceed three (3) square feet in size.

c. Highway Commercial District

1. Business or commercial signs attached or displayed on the surface of a building to which it relates, provided that such sign is limited to thirty-six (36) square feet and not more than one (1) sign on any one street frontage.

2 One permanent identifying sign shall be permitted for a shopping center. Such sign shall not exceed one hundred (100) square feet for each face of said sign.

d. Mixed Use and Industrial Districts

1. Signs directing patrons, members, or audience to temporary exhibits, shows, or events, and signs erected in conjunction with a political election, provided that such sign shall not exceed six (6) square feet, shall be removed within two (2) weeks after the date of the exhibit, show, event, or election, shall not be posted earlier than two (2) weeks before the date of exhibit, show, or event, and that political signs shall not be posted earlier than one (1) month prior to an election.

2. Business or commercial sign on the same lot as the use to which it relates, providing that such sign shall be limited to two (2) square feet for each lineal foot of horizontal building façade length, but not to exceed an aggregate area of one hundred sixty (160) square feet.

3. Special temporary promotional devices, signs, or displays, such as banners or pennants, for a period not to exceed fifteen (15) days in any one (1) calendar year.

304.3 Supplemental Sign Regulations

a. Projection: No sign shall project more than twelve (12) inches from the building façade to which it is attached. No free standing sign may project beyond the building setback line.

b. Height: No attached sign shall be erected upon the roof of

such building, nor extend above the height of the building. Free standing signs shall meet the height requirements of the particular district in which it is located.

c. Clearance: No sign structure erected directly upon the ground shall have less than three (3) feet of clear space between such sign and the ground; however, necessary supports may extend through such open space.

d. Street Intersection: No sign shall be erected, attached or displayed within the clear sight triangle as outlined in Section 301.1.

e. Illumination: Signs may be lighted with non-glaring lights, or shielded flood lights, provided that lighting is screened from adjacent properties. No lights of intermittent, flashing, or animated types shall be permitted.

f. Placement: No signs shall be permitted which are posted, stapled or otherwise permanently attached to public utility poles or trees within the street line. No sign shall be located within ten (10) feet of any side property line.

g. Construction: All signs, except temporary signs, shall be constructed of durable material and kept in good condition ***and*** repair.

h. Non-conforming Signs: Non-conforming signs, once removed, shall be replaced only with conforming signs; however, non-conforming signs may be repainted or repaired, providing such repainting or repairing does not extend the nonconformity.

(new subsection added by Ordinance No. 1-03)

SECTION 305 Parking and Truck Loading Requirements

305.1 Off-Street Parking

a. Minimum Parking Requirements

Any building or other structure erected, enlarged, altered, or used and any lot used or occupied for any of the following purposes shall be provided with the minimum off-street parking spaces as set forth

herewith.

1. One, Two and Multi-Family Dwellings: Two (2) parking spaces for each dwelling unit.

2. Church, School, Public Auditorium or Place of Public Assembly: One (1) parking space for every five (5) seats provided.

3. Hotels, Motels: One (1) parking space for each rental unit.

4. Eating Establishments: One (1) parking space for every four (4) seats.

5. Retail Stores: One (1) parking space for each one hundred (100) square feet of gross floor area.

6. Wholesale Establishments or Warehouses: One (1) parking space for each two (2) employed **(ees)** on maximum shift but at least one (1) space for each five thousand (5,000) square feet of gross floor area.

7. Manufacturing, Industrial and General Commercial Uses not Otherwise Specified: One (1) parking space for each two (2) employees on maximum shift but at least one (1) space for each five thousand (5,000) square feet of gross floor area.

8. Offices: One (1) space for each 400 square feet of net rentable floor area.

9. Hospitals, Convalescent Homes, or Sanitariums: One (1) parking space for each 50 square feet of lot area.

10. Bowling Alleys: Five (5) spaces for each lane.

11. Drive-In Eating Establishments: One (1) parking space for each 50 square feet of lot area.

12. Other Uses Not Specified: The same requirement as for the most similar use listed.

13. Size of Parking Space: An off-street parking space shall have a minimum of two hundred (200) square feet, exclusive of aisles and drives, and have access to a public street.

b. Shared Parking

One or more parking lots may be designed to service a multiple number of commercial uses so long as the total requirements shall be equal to the sum of the requirements of the component uses computed separately.

c. Fractional Space

When required parking computations results in fractions, any fraction below 1/2 may be disregarded and any fraction over 1/2 shall be construed to require a full space.

d. Reduction of Existing Parking

Off-street parking facilities existing at the effective date of this Ordinance shalt not subsequently be reduced to an amount less than that required under this Ordinance for the particular district.

e. Paving

All required parking areas and all access drives for non-residential uses shall be paved with concrete or macadam surface.

f. Parking and Storage of Certain Vehicles

Automotive vehicles without current license plates or boats, campers or trailers, shall not be parked or stored in the front or side yard of any residentially or agriculturally zoned property.

g. Services

No repair to or maintenance of vehicles of any kind, except emergency repairs, shall be permitted in any accessory parking facilities.

305.2 Off-Street Truck Loading

a. Required Loading Space

Every building or structure, lot or land hereafter put to a business or industrial use, or existing building or structure enlarged, shall provide one (1) off-street truck loading space for the first 10,000 square feet or less of gross floor area, plus a minimum of one (1) additional off-street truck loading area for each additional 40,000 square feet of gross floor area.

b. Size of Truck Loading Space

An off-street truck loading space shall have a minimum of twelve (12) feet in width, a minimum of thirty-five (35) feet in length, and a minimum clearance height of fourteen (14) feet.

c. Paving

All required off-street truck loading areas and all access drives shall be paved with concrete or macadam surface.

SECTION 306 Nonconformance Regulations

306.1 Statement of Intent

Within the zoning districts established by this Ordinance or subsequent amendments thereto, there exists or will exist certain non-conformities which, if lawful before this Ordinance was passed or amended, may be continued, subject to certain limitations, although such non-conformities would be prohibited, regulated, or restricted under the terms of this Ordinance or further amendments thereto.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or structure on which actual

construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and on which actual building construction has been diligently carried on nor which would conflict with Section 508(4) of Act 247, Pennsylvania Municipalities Planning Code, as amended. This section shall not apply for a period of five (5) years to an approved plan, whether preliminary or final.

306.2 Nonconforming Lots of Record

Building and accessory structures may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitation imposed by other provisions of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Zoning Hearing Board.

If two or more lots, combination of lots and portion of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and/or area, the land involved shall be considered to be an undivided parcel for the purpose of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and/or area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance. This section shall not apply for a period of five (5) years to an approved subdivision or land development plan, whether preliminary or final.

306.3 Nonconforming Uses of Land

Lawful uses of land which, at the effective date of this Ordinance or subsequent amendment thereto, become nonconforming and where such use involves no individual structure with a replacement cost exceeding ten thousand ($10,000) dollars, such nonconforming use or uses may be continued by the present or any subsequent owner so long

as it remains otherwise lawful, subject to the following provisions:

a. Extension

No such conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

b. Discontinuance

Whenever a nonconforming use has been discontinued for a period of twelve (12) consecutive months, such use shall not thereafter be reestablished. Any future use shall be in conformity with the provisions of this Ordinance.

c. Changes or Moving of Use

A nonconforming use, if changed to a conforming use, shall not thereafter be changed back to any nonconforming use. A nonconforming use may, as a Special Exception, be changed to a nonconforming use of a less restrictive nature, provided that the Zoning Hearing Board shall find that the proposed use is equally or more appropriate in the Zoning District than the existing nonconforming use. A nonconforming use shall not be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.

d. Additional Structures or Buildings

No additional structures, not conforming to the requirements of this Ordinance, shall be erected in connection with such nonconforming use of land.

306.4 Nonconforming Structures or Buildings

Lawful nonconforming structures or buildings which, at the effective date of this Ordinance or subsequent amendments thereto, become nonconforming by reason of restrictions on area of structure, lot coverage, height, yards, its location on the lot, or other requirements concerning the building or

structure, such building or structure may be continued so long as it remains lawful, subject to the following provisions:

a. Enlargement

No such nonconforming structure or building may be enlarged or altered in a way which increases its nonconformity, but any structure, building or portion thereof may be altered to decrease its nonconformity.

b. Damage or Destruction

A nonconforming structure or building which is destroyed or partially destroyed by fire, explosion, an act of God, or by any means to an extent of seventy-five (75) percent or more of the market value thereof immediately prior to such damage or destruction, shall not be repaired or restored but shall be reconstructed and used only in conformity with the provisions of this Ordinance unless construction is begun within twelve (12) months after the destruction or partial destruction has taken place.

c. No nonconforming structure or building shall be, for any reason, moved for any distance unless it shall thereafter conform to the regulations for the district in which it is located after it is moved.

306.5 Nonconforming Use of Structures or Buildings

Lawful nonconforming structures or buildings with a replacement cost of $1,000 or more, or of structure and premises in combination which at the effective date of this Ordinance or as a result of subsequent amendments thereto, become nonconforming may be continued so long as it remains otherwise lawful, subject to the following provisions:

a. Extension

A nonconforming use may be extended throughout any part of an existing structure or building, or a new extension may be constructed, provided that any structural alterations, extensions or additions shall comply with all provisions of this Ordinance with respect to height, area, width, yard and coverage

requirements for the zoning district in which the structure or building is located.

However, such extension of a nonconforming use shall not exceed fifty (50) percent of the gross floor area occupied by said nonconforming use at the time such nonconforming use became nonconforming.

b. Change to Use

A nonconforming use, if changed to a conforming use, shall not thereafter be changed back to any nonconforming use. A nonconforming use may, as a Special Exception, be changed to a nonconforming use of a less restrictive nature, provided that the Zoning Hearing Board shall find that the proposed use is equally or more appropriate in the Zoning District than the existing nonconforming use. A nonconforming use shall not be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.

c. Discontinuance

When a nonconforming use of a structure or building, or structure or building and premises in combination, has been discontinued or abandoned for eighteen (18) months, such nonconforming structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

d. Destruction

Where nonconforming use status applies to a structure, building and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than seventy-five (75) percent of the market value of the structure or building immediately prior to such damage or destruction. However, if construction is begun within twelve (12) months after destruction or partial destruction, the same nonconforming use may be re-established.

306.6 Unsafe or Unlawful Structures

if a nonconforming structure or building or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

306.7 Uses under Special Exception Provisions Not Nonconforming Uses

Any use which is permitted as a Special Exception in a district under the terms of this Ordinance (other than a change through Board action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall, without further action, be considered a conforming use.

SECTION 307 Flood Plains

It is the intent of this section to supplement the zoning district regulations with the Municipality's Ordinance 1-1982. However, if the zoning regulations contained in this Ordinance are more restrictive, then the more restrictive requirements shall apply.

307.1 Designation of Flood Plains

Flood plains are those areas that have been delineated in the Flood Insurance Study prepared by the Federal Insurance Administration dated December 5, 1997, and those areas which the U.S. Soil Conservation Service has classified as "alluvial" soils or "local alluvium" in the Soil Survey of Berks County.

The determination of the limits and the elevation of alluvial land subject to inundation by flooding, as a result of one hundred (100) year storm frequency, shall be the responsibility of the applicant. Hydrologic calculations shall be prepared by a professional engineer with demonstrated competence and shall be submitted for review by the Municipal Engineer.

SECTION 308 Slope Controls

308.1 Intent

Steep slopes pose special problems for normal building construction and site developments in terms of runoff control, soil erosion, stream siltation, flooding, sanitary seepage, etc. It is impractical to delineate each separate steep slope area on the Official Zoning Map; therefore, the following controls are intended to augment the provisions of the primary zoning districts.

308.2 Definition

Steep slope areas, over 15 percent in grade, are delineated on the U.S. Soil Conservation Survey Soil Maps as slopes having a D, E, or F suffix. For purposes of provision of on-lot sanitary facilities, slopes of 8 to 15 percent grade or greater are considered steep slopes. These slopes have a Suffix of C, D, E, or F on the Soil Conservation Survey.

308.3 Uses Permitted

a. Parks, outdoor recreation;

b. Agriculture, forestry, etc.;

c. Buildings permitted in the primary district further provided that:

1. Buildings or structures are not located on slopes whose grade exceeds 25 percent (E or F slopes on soil maps);

2. Buildings or structures and roads located on slope of 15 to 25 percent in grade (D slopes) require a plan showing the topography, building location, drives, sanitary facilities, foundation, drainage, planting schedule and grading plan prepared by an architect or landscape architect or engineer and a statement as to how problems of possible erosion, stream siltation, soil stabilization and revegetation are to be overcome.

3. Building requiring on-lot sanitary facilities located on slopes of 8 percent or greater, require a detailed plan prepared by a qualified engineer or sanitarian indicating the location and design of special sanitary

facilities needed to overcome slope problems and a statement that no seepage or other unsanitary conditions will be caused to exist by such design.

308.4 Issuance of Zoning Permit

A Zoning Permit shall not be issued for a steep slope area development until the Municipal Engineer has certified that the conditions on the lot are as actually stated on the plan, and that the plan, as proposed, actually resolve the problems arising from the steep slope condition.

308.5 Recording of Permits

The Zoning Officer shall maintain **a** separate file for all Zoning Permits in areas subject to these regulations.

SECTION 309 Adult Book Stores, Adult Motion Picture Theatres, Cabarets and Massage Parlors

309.1 Definitions for Purposes of Section 309

For the purpose of within Section 309 of this Ordinance, the terms, phrases and words herein referred to are defined as follows:

a. Adult Book Store: A commercial establishment having as a substantial or significant portion of its stock in trade, books, magazines, photographs or other materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below), or an establishment with a segment or section devoted to the sale or display of such material.

b. Adult Motion Picture Theatre: A building or establishment used, in whole or in part, for presenting motion pictures distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activity" or "Specified Anatomical Areas" (as defined below) for observation by patrons therein.

c. Cabaret: A club, restaurant, bar, tavern, theater, hall or similar place of establishment which features male and/or female entertainers, including, but not limited to, topless or bottomless dancers, entertainers, strippers or employees, whose performance or activities include, even though not

limited to, simulated sex acts, live or actual sex acts or other "Specified Sexual Activities" (as defined below), and/or reveal or display "Specified Anatomical Areas" (as defined below).

d. Massage: Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment, or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor.

e. Massage Parlor: Any establishment having a source of income or compensation derived from the practice of massage and which has a fixed place of business where any person, firm, association or corporation engages in or carries on the practice of massage; provided, however, that this definition shall not be construed to include a hospital, nursing home, medical clinic or the office of a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the Commonwealth of Pennsylvania, nor barber shops or beauty salons in which massages are administered only to the scalp, face, neck or the shoulders. In addition, this definition shall not be construed to include a volunteer fire department, a volunteer rescue squad or non-profit organization operating a community center, a swimming pool, tennis court or other educational, cultural, recreational or athletic facilities and facilities for the welfare of the residents of the area.

f. Specified Sexual Activities:

1. Human genitals in a state of sexual stimulation or arousal;

Acts of human masturbation, sexual intercourse or sodomy; and

3. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

Specified Anatomical Areas:

1. Less than completely or opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola; or

2. Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

309.2 Prohibition in Residential and Commercial Zones

It shall be unlawful to establish an adult book store, an adult motion picture theatre, a cabaret or a massage parlor in any R-A Rural-Agriculture District; R-1 Low Density Residential District; R-2 Medium Density Residential District; R-3 High Density District; C-1 Highway Commercial District; 1-1 Industrial District and L-1 Light Industrial District.

309.3 One Thousand (1,000) Feet Separation Requirement

It shall be unlawful to establish an adult book store, an adult motion picture theatre, a cabaret or massage parlor within one thousand (1,000) lineal feet of any other adult book store, adult motion picture theatre, cabaret or massage parlor.

309.4 Prohibition within Five Hundred (500) Feet from a School, Church or Playground

It shall be unlawful to establish an adult book store, an adult motion picture theatre, a cabaret or a massage parlor within five hundred (500) feet of any school, church, playground, or any other area designated as a recreational area.

SECTION 3.10 **Dumping, Storage or Disposal of Spent Mushroom Soil, Mushroom Compost or Other Intensive Agricultural Wastes**

310.1 All mushroom soil, compost or intensive agricultural waste shall be spread within a three (3) month period, weather permitting, unless contained in a structure approved by the Zoning Officer.

310.2 Mushroom soil, compost or intensive agricultural waste shall be spread at a thickness no greater than six (6) inches or at a depth that can be turned under with conventional farm equipment.

310.3 When dumping or spreading mushroom soil, compost or intensive agricultural waste in any agricultural area, the land must be returned to its original farmable state annually.

310.4 Any area used for storage of mushroom soil, compost or intensive agricultural waste shall not be reused as a storage site until a state of substantial decay has occurred. A proposed storage area shall be inspected and approved by the Zoning Officer before any new storage of mushroom soil, compost or intensive agricultural waste is placed on a site.

310.5 There shall be no storage or dumping permitted within two hundred (200) feet of any well or residential dwelling.

SECTION 311 Keeping of Horses and Farm Animals

311.1 Keeping of horses and other farm animals shall be prohibited in any residential, commercial or industrial zoning district unless the property is used for agricultural purposes. Horses and other farm animals may be kept in any agricultural area, as an accessory use to any residence, provided that the lot size is a minimum of three (3) acres and provided that the following requirements are met:

a. No structure or building housing any horses or farm animals shall be located within two hundred (200) feet of an existing or proposed dwelling located on any adjacent property, including across any public or private street or right-of-way.

b. Pastures or corrals for horses or farm animals shall not be located within twenty-five (25) feet of any property line.

c. The minimum lot size for keeping of farm animals shall be subject to the following table. Each one thousand pounds of average animal weight shall be equivalent to one (1) animal unit. The first animal unit shall require two (2) acres and each additional animal unit shall require one (1) additional acre of property.

Type	Average Weight (lbs.) per Animal
Horse	1,000
Dairy Cattle	1,000
Beef Cattle	1,000
Hogs	200

Sheep/Goats	50
Poultry	5

All other farm animals not listed shall be based on the "average" weight of the animal, as determined by the Zoning Officer.

SECTION 312 Agricultural Related Business

312.1 Agricultural related business(es) which are permitted by Conditional Use in the R-A zoning district shall be subject to the following conditions:

1. The minimum lot size shall be eleven (11) acres and shall have been actively farmed since the adoption of this Ordinance to the time of application for Conditional Use.

2. The proprietor of the business shall be the owner of the property, or a family member living on the property, and shall not employ more than two (2) paid or unpaid employees.

3. All off-street parking for any agricultural business and signs shall be in compliance with the requirements of Sections 304.1, 304.2b.1 and Sections 305.1a, b, c, d, f and g.

4. Entrances and exit ways shall have a minimum width of twelve (12) feet for each lane of traffic and shall not be greater than thirty (30) feet in width at the street line; they shall also be designed to prevent blocking of vehicles entering or leaving the site.

5. Goods, materials or equipment shall not be displayed, stored or sold in any required front, side or rear yards.

6. All outdoor storage shall be screened by evergreen planting of sufficient height and density to keep it from view from a public street and adjacent residences.

7. No emission of noxious, toxic or corrosive gases or fumes injurious to persons, property or vegetation shall be permitted; no glare, vibration or heat detectable beyond the property boundary shall be permitted; no noise audible beyond the property boundary shall be permitted which exceeds the average intensity of noise of street traffic at the front lot line; noise due to intermittence, beat, frequency or shrillness shall be muffled; no emission of any smoke shall be permitted; and electric or electric devices shall be

shielded in such a manner as not to interfere with radio or television reception or transmission of any kind.

8. New buildings or structures erected for any agricultural related business shall be limited to a maximum floor area of eight hundred (800) square feet. All required district minimum yard requirements, building coverage and building height shall be met.

9. Any existing barn or other agricultural accessory building, existing prior to the adoption of this Ordinance may be used for an agricultural related business, regardless of size or floor area, provided that the building and/or structure is structurally sound at the time of application for Conditional Use approval.

ARTICLE IV

ADMINISTRATION AND ENFORCEMENT

SECTION 401 Zoning Officer

401.1 Zoning Enforcement

A Zoning Officer shall not hold any elective office in the Municipality and shall meet qualifications established by the Municipality and shall be able to demonstrate to the satisfaction of the Municipality a working knowledge of municipal zoning.

401.2 Duties and Powers of Zoning Officer

It shall be the duty of the Zoning Officer to enforce literally the provisions of this Ordinance and amendments, and he shall have such duties and powers as are conferred on him by this Ordinance and as are reasonably implied for that purpose. The Zoning Officer's duties shall include, but are not limited to, the following:

1. Receive applications for and issue zoning permits and sign permits.

2. Keep an official record of all businesses and activities, including complaints of a violation of any of the provisions of this Ordinance and of the action taken consequent on each such complaint. All such records shall be open to public inspection. File copies of all applications received, permits issued, reports and inspections made in connection with any structure, building, sign and/or land, shall be retained as long as they remain in existence.

3. Make inspections as required to fulfill his duties. He shall have the right to enter any building or structure or enter upon any land, at any reasonable hour, in the course of his duties.

4. Issue permits for special exception uses and for variances only after such uses and/or buildings have been approved by the Zoning Hearing Board in accordance with the regulations of this Ordinance.

5. Be responsible for keeping this Ordinance and the Official Zoning Map up to date so as to include all amendments thereto.

6. Issue Certificates of Use and Occupancy in accordance with the terms of the Ordinance.

7. Determination of Preliminary Opinions in accordance with Section 408.

401.3 Enforcement Notice

The Zoning Officer shall serve enforcement notices on any person, firm, corporation, or partnership responsible for violating any of the provisions of this Ordinance, or in violation of a detailed statement or a plan approved thereunder. Enforcement notices shall also be sent by the Zoning Officer to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding the parcel, and to any other person requested, in writing, by the owner of record.

SECTION 402 Zoning Permit

No building, structure, or sign shall be erected, constructed, moved, added to, or structurally altered, nor shall land be put to any use without a permit therefor, issued by the Zoning Officer. No such permit shall be issued except in conformity with the provisions of this Ordinance, or upon written order from the Zoning Hearing Board in the form of an administrative review, special exception, or variance as provided by this Ordinance or any Court of competent jurisdiction.

402.1 Form of Application

All applications shall be made in writing and shall be accompanied by two (2) sets of plans showing at least the following information:

a. Actual dimensions and shape of the lot to be built upon;

b. The exact size and location on the lot of buildings, structures, or signs existing and//or proposed extensions thereto;

c. The number of dwelling units, if any, to be provided;

d. Methods of sewage and solid waste disposal, plus information on quantity and quality of sewage involved and proposed method of treatment, if required;

e. Emission inventory report describing those emissions programmed for disposal to the atmosphere, stating the type and quantity of emissions, size, height and location of the

exhaust stacks and description of any control systems;

f. Parking space provided and/or loading facilities;

g. Statement indicating the existing or proposed use;

h. Height of structure, building, or sign;

All other information necessary for such Zoning Officer to determine conformation with and provide for enforcement of this Ordinance;

Approved permit for on-lot sewage disposal.

One (1) copy of the plan shall be returned to the applicant by the Zoning Officer after he shall have marked such copies either as approved or disapproved and attested to same by his signature on such copies.

One (1) copy of all such plans shall be retained by the Zoning Officer for his permanent records.

Such approval and Zoning Permit shall be issued or refused within thirty (30) days from date of application. In case of refusal, the applicant shall be informed of his rights of appeal. The application for a permit shall be submitted in such form as the Zoning Officer may prescribe.

402.2 Expiration of Zoning Permit

Zoning permit shall expire within six (6) months from date of issuance, if work described in any permit has not begun. If work described in any zoning permit has begun within the six-month period, said permit shall expire after two (2) years from date of issuance thereof. However, an extension of time may be granted by the Governing Body.

SECTION 403 Certificate of Use and Occupancy

A Certificate of Use and Occupancy shall be required upon the completion of the work contemplated. It shall be unlawful to use and/or occupy any structure, building, and/or land or portions thereof in any manner until a Certificate of Use and Occupancy has been issued.

403.1 Form of Application

The application for Certificate of Use and Occupancy shall be submitted in such form as the Zoning Officer may prescribe.

403.2 issuance of Certificate of Use and Occupancy

The Zoning Officer shall inspect any structure, building, sign and/or land or portions thereof and shall determine the conformity therewith, if he is satisfied that the completed work is in conformity with this Ordinance and with the work listed in the Zoning Permit, he shall issue a Certificate of Use and Occupancy.

Certificate of Use and Occupancy shall be granted or refused, in writing, within ten (10) days from the date of application. Zones in which performance standards are imposed, no Certificate of Use and Occupancy shall become permanent until thirty (30) days after the facility is fully operating and when, upon reinspection by the Zoning Officer, it is determined that the facility is in full compliance with all performance standards.

SECTION 404 Schedule of Fees, Charges and Expenses

The Governing Body shall establish a schedule of fees, charges and expenses and collection procedures for zoning permits, certificates of use and occupancy, special exceptions, variances and appeals and other matters pertaining to this Ordinance.

The schedule of fees shall be posted in the office of the Zoning Officer and may be altered or amended by the Governing Body.

Until all application fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

SECTION 405 Causes of Action

In case any building, structure, landscaping, or land is, or is proposed to be erected, constructed, reconstructed, altered, repaired, converted, maintained or used in violation of this Ordinance, the Governing Body, or with their approval, the Zoning Officer, or any aggrieved owner or tenant of real property who shows that his property will be substantially affected by the alleged violation, in addition to other remedies, may institute, in the name of the Municipality, any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, landscaping, or land, or to prevent any illegal act, conduct, business or

use in or about such premises constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Municipality at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Governing Body of the Municipality. No such action may be maintained until such notice has been given.

SECTION 406 Enforcement Remedies

a. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance enacted under the Pennsylvania Municipalities Planning Code, as amended, or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Municipality, pay a judgment of not more than five hundred (500) dollars, plus all court costs, including reasonable attorney fees incurred by the Municipality as a result thereof. No judgment shall commence or be imposed, levied, or be payable until the date of the determination of a violation by the District Justice. If the defendant neither pays, nor timely appeals the judgment, the Municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determines that there has been a violation and further determines that there was a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was not such a violation, in which event there shall be deemed to have been only one (1) such violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Zoning Ordinance shall be paid over to the Township.

SECTION 407 Amendments

The provisions of this Ordinance and the boundaries of Zoning Districts, as set forth in the Official Zoning Map, may from time to time be amended, or changed by the Governing Body of the Municipality in accordance with the provisions of the Pennsylvania Municipalities Code, as amended.

407.1 Procedure ***(See Ordinance No. 1-03 adopted November 11, 2003)***

The following procedures shall be observed prior to making any amendment or change to this ordinance or to the Official Zoning Map:

a. Every such amendment not initiated by the Planning Commission shall be referred to the Planning Commission, at

least thirty (30) days prior to the Governing Body holding a public hearing, for a written report thereon.

b. The Governing Body shall hold a public hearing thereon pursuant to public notice, before voting on the enactment of an amendment. Public notice of such hearing shall include a brief summary of the principal provisions in reasonable detail and a reference to where copies of the proposed amendment may be examined, in addition to the time and place of the hearing. If after any public hearing held upon an amendment, the proposed amendment is revised, or further revised, to include land previously not affected by it, the Governing Body shall hold another public hearing prior to voting on the amendment. The vote on the proposed amendment by the Governing Body shall be within ninety (90) days after the last public hearing.

c. At least thirty (30) days prior to the Governing Body Public Hearing, the Governing Body shall submit the proposed Ordinance to the Berks County Planning Commission for recommendation.

Proposed action shall not be taken until the Planning Commission and the County Planning Commission recommendations have been received. If, however, the Planning Commission and the County Planning Commission fails to act within thirty (30) days, the Governing Body shall proceed without such recommendations.

e. Before voting on the enactment of an amendment, the Governing Body shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Municipality at points deemed sufficient by the Municipality along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.

1. Procedure for Landowner Curative Amendments

1. A landowner who desires to challenge on substantive grounds the validity of the Zoning Ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Governing

Body with a written request that his challenge and proposed amendment be heard and decided as provided in Section 916,1 of the Pennsylvania Municipalities Planning Code, as amended. The Governing Body shall commence a hearing thereon within sixty (60) days of the request, as provided for in Section 916.1 of the Pennsylvania Municipalities Planning Code, as amended. The curative amendment and challenge shall be referred to the County and Township Planning Commissions as provided in Section 407.1 and notice of the hearing thereon shall be given as provided in Subsection 610 and in Section 916.1 of the Pennsylvania Municipalities Planning Code, as amended. The hearing shall be conducted in accordance with subsections (d) to (h) of Section 504.3 and all references therein to the Zoning Hearing Board shall, for purposes of this section, be references to the Governing Body.

2. The hearing shall be conducted in accordance with Section 908 of the Pennsylvania Municipalities Planning Code, as amended, and all references therein to the Zoning Hearing Board shall, for purpose of this section, be referenced to the Governing Body. If the Municipality does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire Zoning Ordinance and Map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge. ***(amended by Ordinance No. 1-03)***

3. If the Governing Body determines that a validity challenge has merit, the Municipality may accept a landowner's curative amendment, with or without revisions, or may adopt an alternative amendment which will cure the challenged defects. The Governing Body shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:

   (a) the impact of the proposal upon roads, sewer facilities, water supplies, schools and other

public service facilities;

(b) if the proposal is for residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance and Map;

(c) the suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;

(d) the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impact; and

(e) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

g. Procedure for Municipal Curative Amendments

If the Municipality determines that it's Zoning Ordinance or any portion thereof is substantially invalid, it shall take the following actions:

(1) The Municipality shall declare, by formal action, its zoning ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration and proposal, the Governing Body of the Municipality shall:

(a) By resolution make specific findings setting forth the declared invalidity of the zoning ordinance which may include: (i) references to specific uses which are either not permitted or not permitted in sufficient quantity, (ii) reference

to a class of use or uses which require revision, or (iii) reference to the entire ordinance which requires revisions.

(b) Begin to prepare and consider a curative amendment to the Zoning Ordinance to correct the declared invalidity.

(2) Within one hundred eighty (180) days from the date of the declaration and proposal, the Municipality shall enact a curative amendment to validate, or reaffirm the validity of, its Zoning Ordinance pursuant to the provisions required by Section 609 of the Pennsylvania Municipalities Planning Code, as amended, in order to cure the declared invalidity of the Zoning Ordinance.

(3) Upon the initiation of the procedures, as set forth in clause (1), the Governing Body shall not be required to entertain or consider any landowner's curative amendment filed under Section 609.1.1f nor shall the Zoning Hearing Board be required to give a report requested under Section 909.1 or 916.1 of the Pennsylvania Municipalities Planning Code, as amended, subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by clause (1)(a). Upon completion of the procedures as set forth in subsections (1) and (2), no rights to cure pursuant to the provisions of Section 609.1 and 916,1 of the Pennsylvania Municipalities Planning Code, as amended, shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which there has been a curative amendment pursuant to this section.

(4) The Municipality having utilized the procedures as set forth in subsections (1) and (2) may not again utilize said procedure for a thirty-six (36) month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of its Zoning Ordinance, pursuant to subsection (2); provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the Municipality by virtue of

a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Municipality may utilize the provisions of this section to prepare a curative amendment to its ordinance to fulfill said duty or obligation.

SECTION 408 **Procedure to Obtain Preliminary Opinion**

In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposed to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under Section 914.1 of the Pennsylvania Municipalities Planning Code, as amended, by the following procedures:

a. The landowner may submit plans and other materials describing his proposed use or development to the Zoning Officer for preliminary opinion as to their compliance with the applicable ordinance and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.

b. If the Zoning Officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once a week for two (2) successive weeks in a newspaper of general circulation in the Municipality. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and time where the plans and other materials may be examined by the public. The favorable preliminary approval under Section 914.1 of the Pennsylvania Municipalities Planning Code, as amended, and the time therein specified for commencing a proceeding with the Board shall run from the time when the second notice thereof has been published.

SECTION 409 **Publication, Advertisement and Availability of Ordinance**

a. Proposed amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the Municipality where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Governing Body shall publish the

proposed amendment once in one (1) newspaper of general circulation in the Municipality not more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed amendment shall include either the full text or the title and a brief summary, prepared by the Municipality's Solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

(1) A copy thereof shall be supplied to a newspaper of general circulation in the Municipality at the time the public notice is published.

(2) An attested copy of the proposed ordinance shall be filed in the County law library or other County office designated by the County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinance.

(b) In the event substantial amendments are made in the proposed amendment, before voting upon enactment, the Governing Body shall, at least ten (10) days prior to enactment, re-advertise, in one (1) newspaper of general circulation in the Municipality, a brief summary setting forth all provisions in reasonable detail together with a summary of the amendment.

SECTION 410 **Conditional Uses** ***(See Ordinance No. 2-01 adopted June 19, 2001 - new section added)***

Where the Governing Body in this Zoning Ordinance has stated conditional uses to be granted or denied by the Governing Body pursuant to express standards and criteria, the Governing Body shall hold public hearing on and decide requests for such conditional uses in accordance with such standards and criteria. In granting a conditional use, the Governing Body may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purpose of the Pennsylvania Municipalities Planning Code, as amended, and this Ordinance.

The following are the minimum standards and criteria that must be met for a Conditional Use approval:

410.1 Mobile Home Park

Mobile Home Parks, including modular or other similar prefabricated homes, are permitted in the R-3 District. All such facilities shall conform to all the requirements of the Commonwealth of Pennsylvania for mobile home parks and the Perry Township Subdivision and Land Development Ordinance.

410.2 Landfills

a. Removal of forest or timber is prohibited without prior approval from the Board of Supervisors.

b. The proposed operation shall not adversely affect soil fertility, drainage and lateral support of abutting land or other properties, nor shall it contribute to soil erosion.

c. The landfill shall meet all applicable State and Federal regulations and shall obtain necessary permits from the Pennsylvania Department of Environmental Protection.

d. There shall be no operation of any kind on Sunday or legal State or Federal holidays. Within one thousand (1,000) feet of any residence, there shall be no operation between 7 P.M. and 7 A.M.

e. The portion of the access road located within one hundred (100) feet of any lot in residential use or lot zoned for residential shall be paved.

f. The maximum landfill site, including all ancillary facilities, shall be twenty (20) acres.

g. The landfill shall be located a minimum of two hundred (200) feet from any other zoning district boundary line and from existing residences.

h. All landfills and improvements shall be screened from view of adjoining properties and from public roadways by a planting screen consisting of evergreens, planted in a solid double row, a minimum of nine feet high.

i. Tire cleaning areas shall be provided and all vehicles leaving the site shall have tires cleaned.

j. At least two (2) employees of the operator shall be at the landfill site at all times during business hours.

k. The disposal of hazardous or toxic wastes shall be prohibited and all landfill shall be limited a non-hazardous waste.

l. A site plan for the rehabilitation of the site, showing both existing and proposed final contours, shall be submitted. The site shall be made re-usable for a permitted use in the zoning

district upon abandonment or closure of the site. The area shall be brought to final grade by at least a two (2) foot layer of earth, capable of supporting vegetation.

(See Ordinance No. 2-01 — new section added)

SECTION 411 Uses Not Provided For

Whenever, under this Ordinance, a use is neither specifically permitted nor denied, and an application is made by an applicant to the Perry Township Zoning Officer for such use, the applicant shall be advised to refer the application to the Perry Township Zoning Hearing Board to hear and decide such request as a Special Exception. The Perry Township Zoning Hearing Board shall have the authority to permit the use, or deny the use, in accordance with the standards governing Special Exception applications. The use may be permitted if it is similar to and compatible with the permitted zoning district under the terms of the Perry Township Zoning Ordinance and in no way is in conflict with the general purposes and intent of the Perry Township Zoning Ordinance. The burden of proof shall be upon the applicant to demonstrate that the proposed use meets the foregoing criteria and would not be detrimental to the public health, safety and welfare of the neighborhood.

ARTICLE V

ZONING HEARING BOARD

SECTION 501 Zoning. Hearing Board - Organization

501.1 Creation of Board

The Governing Body hereby creates a Zoning Hearing Board, herein referred to as the Board, consisting of three (3) residents of the Municipality appointed by resolution by the Governing Body pursuant to the Pennsylvania Municipalities Planning Code, as amended, who shall perform all the duties and have all the powers prescribed by the State Code and as herein provided.

501.2 Appointment

One member of the Board shall be designed to serve until the first day of January following the adoption of this Ordinance, one until the first day of the second January thereafter and one until the first day of the third January thereafter. Their successors shall be appointed on the expiration of their respective terms to serve three years. Members of the Board shall hold no other office in the Municipality.

501.3 Removal

Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority of the Governing Body which appointed the member, taken after the member has received fifteen (15) days' advance notice of the intent to take such a vote. A hearing shall be held, if the Board member requests one in writing.

501.4 Vacancies

Vacancies shall be filled by appointment by the Governing Body for the unexpired portion of term.

501.5 Compensation

The members of the Board shall receive such compensation as shall be fixed by the Governing Body, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Governing Body. Within the limit of funds appropriated by the Governing Body, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical

services.

501.6 Organization

The Board may promulgate such rules or procedure, not inconsistent with this Ordinance and the Pennsylvania Municipalities Planning Code, as amended, as it may deem necessary to the proper performance of its duties and to the proper exercise of its powers. Such rules shall be continued in force and effect, until amended or repealed by the Board.

501.7 Meetings

Meetings of the Board shall be held at the call of the chairman and at such other times as the Board, by majority vote, may determine.

501.8 Minutes and Records

The Board shall keep public stenographic records of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. The Board shall keep full public records of its examination and other official action, copies of which shall be immediately filed with the Secretary of the Governing Body and shall be the property of the Municipality. The Board shall submit a report of its activities as requested by the Governing Body.

SECTION 502 Zoning Hearing Board — Powers and Duties

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudication in the following matters:

502.1 Appeals and Challenges

a. Substantive challenges to the validity of any land use ordinance, except those brought before the Governing Body pursuant to Section 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code, as amended.

b. Challenges to the validity of a land use ordinance procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance.

c. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any

permit, or failure to act on the application thereof, the issuance of any cease and desist order.

d. Appeals from a determination by the Municipal Engineer or the Zoning Officer with reference to the administration of any flood plain or flood hazard ordinances or such provisions within a land use ordinance.

e. Appeals from the Zoning Officer's determination under Section 408.

f. Appeals from the determination of the Zoning Officer or Municipal Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving subdivision and land development.

9. Application for variance from the terms of this Ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 502.2.

h. Application for special exception under this Ordinance or flood plain or flood hazard ordinances or such provisions within a land use ordinance, pursuant to Section 502.3.

502.2 Variance

The Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant. The Board may, by rule, prescribe the form of application and shall require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

a. That there are unique physical circumstances, including, irregularity, narrowness, or shallowness of lot size, of shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located;

b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in

strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

c. That said special circumstances or conditions have not resulted from any act of the applicant subsequent to the adoption of this Ordinance, whether in violation of the provisions hereof or not, and that such circumstances or conditions are such that strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land, structure, or building;

d. That the granting of the variance, under such conditions as the Board may deem necessary or desirable, will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not alter the essential character of the neighborhood district in which the property is located;

e. That any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is situated, nor substantially or permanently impair the appropriate use or development of adjacent property;

f. That no nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of land, structures, or buildings in other districts shall be considered grounds for the granting of a variance;

g. That in no case shall a variance be granted solely for reasons of additional financial gain on the part of the applicant;

h. That the jurisdiction of the Governing Body shall not be infringed upon by action of the Board in any matter which should appropriately be the subject for an amendment to the Zoning Ordinance or Zoning Map. No variance shall be granted under this Section to allow a structure or use in a zone restricted against such structure or use.

The variance, if authorized, will represent the minimum

variance that will afford relief and will represent the least modification possible of the regulations in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of the Pennsylvania Municipalities Planning Code, as amended, and this Ordinance.

502.3 Special Exceptions

To hear and decide only such special exceptions to the terms of this Ordinance upon which the Board is specifically authorized to pass upon by the terms of this Ordinance. The granting of a special exception, when specifically authorized by the terms of the Ordinance, shall be subject to the following conditions and guiding principles:

a. Such use shall be one which is specifically authorized as a Special Exception Use in said district.

b. Such permits shall only be granted subject to any applicable condition and safeguards as required by this Ordinance.

c. Such permit may be granted subject to additional reasonable conditions and safeguards as may be deemed by the Board to be advisable and appropriate.

d. Such use shall be found by the Board to be in harmony with the general purposes and intent of this Ordinance.

e. Such use either by location, design or operation shall not adversely affect the character of the District, nor the conservation of property values, nor the health and safety of residents or workers on adjacent properties and in the general neighborhood.

f. Such use shall be such appropriate size and so located and laid out in relation to its access streets that vehicular and pedestrian traffic to and from such use will not create undue congestion or hazards prejudicial to the general neighborhood.

g. Such use shall not conflict with the direction of building development in accordance with any Comprehensive Plan or portion thereof which has been adopted by the Planning

Commission.

SECTION 503 **Special Exception Conditions** ***(See Ordinance No. 2-01 adopted June 19, 2001 — section deleted)***

The following are special exceptions that are allowed in certain specified districts subject to the appropriate safeguards and conditions and further subject to favorable Planning Commission report and recommendation and authorization by the Zoning Hearing Board.

503.1 Intensive Agricultural Activity ***(See Ordinance 2-01 — section deleted)***

503.2 Junk Yards

Junk Yards are permitted in the Industrial (1-1) District subject to the following regulations:

a. A junk yard shall be enclosed with a fence a minimum of six (6) feet in height with gates. Gates shall be securely locked except during business hours when an adult attendant is on the premises.

b. All junk shall be stored and set back at least twenty-five (25) feet from any adjoining premises and at least fifty (50) feet from the right-of-way of any public road or highway.

c. Burning or melting of any junk, rubbish, or refuse is prohibited.

d. All junk shall be stored and arranged so as to permit access by firefighting equipment and to prevent accumulation of stagnant water. Junk or scraped automobiles shall not be piled to a height of more than eight (8) feet from the ground.

e. All gasoline shall be drained from any junk or scrapped automobiles into containers and removed from the premises within twelve (12) hours from arrival of junked automobiles on the premises.

f. No garbage or organic waste shall be permitted to be stored in any junk yard.

503.3 Recreation and Institutional Uses

Recreational facilities such as lodges or clubs for hunting, fishing,

swimming, golf courses, playgrounds and play fields, and institutional uses such as churches, schools or cemeteries are allowed in appropriate districts subject to the following safeguards and conditions:

a. Heavy traffic generators, such as large institutions, churches and schools, should be located so as to be readily accessible from good roads that are adequate to handle the traffic anticipated.

b. Hunting and gun clubs should have sufficient land and be adequately fenced and supervised during hours of operation to insure the safety of residents of adjoining properties. Shooting hours of such operations shall be limited to daylight hours.

c. Lighting shall be designed so as to prevent glare on adjoining properties.

d. Adequate parking shall be provided on the lot for each activity, either main or accessory, at the rate of the most similar use outlined in Section 305 the right-of-way of any public road.

503.4 Car Wash

Car washes are permitted in the Highway Commercial (C-1) District subject to the following regulations:

a. Automatic, semi-automatic or self-service car washes limited to the service of cleaning of vehicles are permitted only in an enclosed building. No such building shall be located closer than one hundred (100) feet to any residential district, hospital or fire station, nor closer than fifty (50) feet to a street intersection.

b. All vehicle storage, or structures, shall be located so that they do not intrude into the front yard setback and shall meet all other yard requirements of the C-1 District.

c. Sufficient lot area shall be provided to provide space for the building and required yards, and storage space for not less than five (5) vehicles for each bay in a self-service car wash and for not less than ten (10) vehicles for each space or rated capacity of automatic or semi-automatic car washes.

503.5 Quarries

Quarries are permitted in the Industrial (1-1) District subject to the following regulations:

a. Quarry areas, including abandoned lands or future reserves and active quarry areas, shall be adequately fenced to insure public safety.

b. Access to quarries shall be controlled to insure public safety.

c. Quarries shall only be operated during normal daylight hours.

d. Access roads to quarries shall connect to a Collector or Major road.

503.6 Motor Vehicle Service Stations and Drive-In Establishments ***(See Ordinance No. 1-03 adopted November 11, 2003 - section deleted)***

Motor Vehicle Service Stations and Drive-In Establishments are permitted in the C-1 District, subject to the following conditions:

a. Drive-in banks, service stations, or similar establishments, located in a Shopping Center District, shall be so located as not to interfere with internal parking circulation of the shopping center, and shall provide separate well-defined parking facilities. Parking shall be screened in accordance with Section 207.6c of this Ordinance.

b. If located in a required front yard, drive-in establishments shall be located not less than fifty (50) feet from the street line and parking shall be screened in accordance with Section 207.6c of this Ordinance.

c. Such establishments will utilize existing or planned entrance and exit ways for the shopping center and shall not be allowed separate access. Such establishments shall also be in accordance with Section 207.8 of this Ordinance.

503.7 New or Used Auto Sales, Mobile Home and Modular Home Sales, Farm Equipment and Other Similar Activities

New or Used Auto Sales, Trailer Sales, Farm Equipment and other similar activities are allowed in the C-1 District subject to the

following conditions:

a. Such uses shall be located in the C-1 District provided they meet all of the minimum lot size, yards and building coverage and height requirements.

b. Adequate off-street parking shall be provided on the same lot as the building or activity served. Parking areas shall be designed so that vehicles will not have to back onto a public street.

c. Entrance and exit ways shall have a minimum width of twelve (12) feet for each lane of traffic and shall not be greater than thirty (30) feet in width at the street line; they shall also be designed to prevent blocking of vehicles entering or leaving the site.

d. Means of ingress and egress to any public street, other than a property access street, shall not be located closer than two hundred (200) feet from an intersecting street.

e. Any goods, materials or equipment shall not be displayed, stored, or sold in the required front yard; and such goods, materials, or equipment shall be displayed or stored or arranged in an orderly manner to permit access by firefighting equipment.

f. All outdoor storage shall be screened by evergreen planting of sufficient height and density to screen it from view of public streets and adjacent residential districts.

503.8 Clustering

As a special exception in the R-A, R-1 and R-2 Zoning Districts, Area and Bulk may be reduced, provided the following procedures and conditions are met:

a. The minimum tract size must be ten (10) acres in R-A Zoning District and five (5) acres in R-1 or R-2 Zoning District.

b. The applicant may be allowed to reduce the minimum lot size requirement applicable to the tract by fifty (50) percent, provided that:

1. The lot is of sufficient size to accommodate on-lot sewage disposal and on-lot water supply.

2. The balance of the tract (total tract minus plotted area and street rights-of-way) is permanently preserved as common open space which shall be owned and maintained in any one, or a combination of the following ways, subject to the approval by the Board:

   Deed common open space to the Municipality, if acceptable to the Governing Body.

   Create a Homeowner's Association to own and maintain common open space.

   Own and maintain the common open space through the use of a Trust.

3. The nature, extent, location and use of common open space shall be subject to approval by the Board and shall, as a minimum, meet the following requirements:

   Common open space shall be land usable for either active or passive recreation or for agricultural use.

   Common open space areas used for recreation will be suitably landscaped either by retaining existing natural cover and wooded areas or by a comprehensive landscape plan for improving open space areas through planting and other means in such a way that future maintenance costs are minimized

   The location, shape, topography and size of the common open space area shall be subject to approval by the Board and such land shall be in an acceptable condition before any building permit is issued in the subdivision or in lieu of such condition a bond for any improvements to the common open space shall be furnished by the applicant.

4. Nothing herein shall require the Municipality to accept dedication of common open space land. However, any property or potion of property accepted by the Municipality shall be retained for public use. Common open space shall be deed restricted to prevent any

further subdivision and restrict the uses to those set forth herein.

c. All lot width and yard requirements normally applicable to the tract of land may be reduced fifty (50) percent subject to the approval of the Board, provided that:

1. Yards adjacent to adjoining properties (including across a street or right-of-way) shall meet all minimum yard requirements of the appropriate zoning district, except when adjacent tracts have previously been development under this clustering provision.

503.9 Single-Family Development within the Rural-Agricultural District

In the R-A Zoning District, the Zoning Hearing Board may authorize single-family development subject to the following requirements:

a. Except as permitted for single-family dwelling purposes, pursuant to this Section of the Ordinance, or for Permitted and Special Exception uses established in Section 201.1 and 201.3 of this Ordinance, subdivision of land within the R-A District shall be limited to the division of land for agricultural purposes of parcels of ten (10) or more acres or to the creation of a parcel less than ten (10) acres for the purpose of transferring the parcel to an adjacent property owner; provided, however, that at least ten (10) acres shall be maintained in the original tract.

b. Tracts of land existing at the adoption of this amendment to the Zoning Ordinance shall be limited, subject to Zoning Hearing Board approval, to the following maximum number of additional single-family detached dwellings:

Size of Tract of Land	Maximum Number of Single-Family Dwellings
0-19 acres	1
20-49 acres	2
50-99 acres	3
100-199 acres	4
200-349 acres	5
350-499 acres	6
Over 500 acres	One additional dwelling for every 200 acres

NOTE: Fractions or parts of acres shall not be considered in determination of the maximum number of dwellings provided for in this section. A property owner submitting a subdivision plan shall be required to specify on the Plan which parcel shall carry with it the right to the quota or unused quota of additional single-family dwellings.

c. All single-family dwellings existing or approved prior to the adoption of this amendment to the Zoning Ordinance shall be permitted in addition to the above permitted number of dwellings.

d. New single-family detached dwellings shall be located on soils other than soils identified as Soil Capability Units 1, II and III by the Soil Conservation Service in the Soil Survey of Berks County, or on land which cannot feasibly be used for agricultural purposes due to the land characteristics, slope, or size and/or shape of property. Where, in the opinion of the Zoning Hearing Board, location on soils other than Soil Capability Units I, II and III is not feasible, the Board shall permit the location of dwellings on such soils; however, the location shall be on the least agriculturally productive land feasible or such other area that would minimize interference with agricultural production.

e. Any person who shall claim that the classification of soils on his land is incorrect because the Soil Survey is inaccurate in regard to his property, may appeal the classification to the Zoning Hearing Board, the burden of proof shall be on the appellant to the Zoning Hearing Board. The appellant must submit, as part of his appeal before the Zoning Hearing Board, an analysis prepared by a professional engineer or certified geologist or soil scientist indicating soil types based on field investigation and tests. The Zoning Hearing Board may, upon review of the submitted report, reclassify the property in question in accordance with the findings submitted for the purpose of this Ordinance.

The lot size for all new single-family dwellings, as permitted under this Section, shall be not less than one (1) acre nor more than one and two-tenths (1.2) acres. Larger lots may be permitted if the owner can substantiate that increases in the size of the property will not adversely affect the objectives of this Section or that the physical or soil characteristics require larger lot sizes in order to locate the dwelling, accessory structures, driveway, well and/or on-site

sewage disposal facilities.

The minimum/maximum requirements shall be as follows:

Minimum		Maximum	
Front Yard	- 50 feet	Building Coverage	-20%
Rear Yard	- 50 feet	Building Height (feet)	- 35
Each Side Yard	- 20 feet	(stories)	- 2-1/2
Lot Width	-100 feet		

g. Lots for the location of single-family detached dwellings, in addition to those authorized by subparagraph (b), may be permitted provided that the dwellings proposed are located on lots which consist of low-quality agricultural land. Land shall be considered low quality if:

1. The land is in Soil Capability Units IV through VIII as classified by the Soil Conservation Service, or

2. The land cannot be feasibly used for agriculture:

   a. Due to the existing features of the site, such as rock formation which does not permit plowing, swamps, heavily wooded areas, or slopes exceeding fifteen (15) percent;

   b. Due to the size or shape of the tract, the tract of land is unsuitable for farming and the efficient use of farm machinery.

Such additional lots must meet all of the requirements of this Ordinance (Section 201.4, 201.5 and 201.6).

3. Any person who claims that his land cannot feasibly be used for agriculture under Section 503.9(g)(1) and (2) may appeal to the Zoning Hearing Board. The burden of proof shall be on the person appealing to the Zoning Hearing Board.

h. All plans for the subdivision or land development as may be authorized pursuant to this Section shall also be deemed to be governed by the provisions, requirements and procedures of the Municipality's Subdivision and Land Development Ordinance and said Ordinance shall be followed for all plan approvals.

503.10 Mobile Telephone, Microwave, Television and Radio Transmission Structures

a. Such use shall be permitted in the Highway Commercial District (C-1) and/or the industrial (1-1) districts, provided that such towers and/or antenna structures shall not be located within two hundred (200) feet, or the total height of the tower and/or antenna structure, whichever is less, from any existing building or accessory building or street.

b. In addition to the minimum lot sizes required in the C-1 zoning district and the I-1 zoning district, a safety easement setback shall be required providing a radius not to be less than the total height of the tower and /or antenna structure, and further providing that no future structure may be constructed within said safety easement setback.

c. The maximum height of the particular structures shall not exceed two hundred (200) feet in total height above ground.

d. Applicant shall be required to fence the perimeter of the site on which the transmission tower and communications equipment building is located. Fencing shall be in accordance with applicable Township Ordinances. In addition, the applicant shall be required to landscape and screen the tower base and equipment building and to have appropriate lighting on site to prevent nighttime trespassing.

e. Applicant, for a special exception under this provision, shall agree to submit to the Township Zoning Officer a quarterly report setting forth the status of use of the transmission tower and/or communications equipment building. Applicant shall be required to dismantle and remove the tower within six (6) months of the date on which the use of the tower has ceased and/or been abandoned. Any period of time in excess of two (2) months in which the transmission tower is not used for the transmission and/or receiving of radio waves shall be deemed an abandonment of said use.

f. All other provisions of this Ordinance shall be complied with, including, but not limited to, applicable FCC and FAA regulations.

g. Applicant, for a special exception under this provision, shall demonstrate that the requested location is the optimum location for the location of a tower and that no alternative sites are available in the Township. The applicant shall demonstrate that alternative sites were studied and the applicant sought permission to locate on

existing towers or structures in the Township.

h. The Zoning Hearing Board may place other restrictions and requirements on proposed tower and/or antenna uses as the Board deems necessary for the protection of the general health, safety and welfare of the public.

SECTION 504 Procedures for Application to the Zoning Hearing Board

The Board shall act in strict accordance with the procedure specified by Articles IX and X of the Pennsylvania Municipal Planning Code, as amended.

Applications and appeals, together with the required filing fee as established by the Governing Body, shall be submitted to the Secretary of the Zoning Hearing Board. All appeals and applications made to the Board shall be in writing on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of the Ordinance involved and shall exactly set forth the interpretation that is claimed, the grounds for any challenges to the validity of the Ordinance, the use for which a special permit is sought, or the details of the variance that is applied for and the ground on which it is claimed that the variance should be granted, as the case may be.

504.1 Parties Appellant before the Zoning Hearing Board

Appeals under Section 502.1(a), (b), (c), (d), (e) and (f) may be filed with the Board, in writing, by an officer or agency of the Municipality, or any person aggrieved. Requests for a variance under Section 502.2 and for special exception under Section 502.3 may be filed with the Board by any landowner or any tenant with the permission of such landowner.

504.2 Time Limitations

The time limitations for raising certain issues and filing certain proceedings with the Board shall be as follows:

a. No issue of alleged defect in the process of enactment of this Ordinance or Map, or amendments thereto, shall be raised later than thirty (30) days from the time such Ordinance, Map or amendment takes effect unless the person raising such issue alleges and proves that he had no notice, knowledge, or reason to believe that such approval has been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.

b. No person shall be allowed to file any proceeding with the Board later than thirty (30) days after any application for development, preliminary or final, has been approved by an appropriate officer of the Municipality, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he has no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.

The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan pursuant to Section 709 of the Pennsylvania Municipalities Planning Code, as amended, or from an adverse decision by the Zoning Officer on a challenge to the validity of an ordinance or a map pursuant to Section 916.2 of the Pennsylvania Municipalities Planning Code, as amended, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

All appeals from determinations adverse to the landowner shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

504.3 Hearings ***(See Ordinance No. 1-03 adopted November 11, 2003)***

For the conduct of any hearing and the taking of any action, a quorum shall not be less than a majority of all members of the Board, but where two members are disqualified to act in a particular matter, the remaining member may act for the Board. The Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive decisions or findings by the Board and accept the decision or findings of the hearing officer as final as provide in Section 908 of the Pennsylvania Municipalities Planning Code, as amended.

The Board shall conduct hearings and make decisions in accordance with the following requirements:

a. The Zoning Hearing Board shall fix a reasonable time for the hearing of the appeal, public notice shall be given to the applicant, the Zoning Officer, to each member of the Zoning Hearing Board, to the Solicitor of the Zoning Hearing Board, to the Chairperson of the Board of Supervisors, to the Secretary of the Township, to the Chairperson of the

Planning Commission, to such other person or persons as are required to receive notice by this Ordinance of the Pennsylvania Municipalities Planning Code, as amended from time to time, to such other persons as the Zoning Hearing Board shall determine should receive such notice, and to such other persons as the Governing Body shall designate by Ordinance and to any person who has made timely request for same. Notice of all matters coming before the Zoning Hearing Board shall be sent by first class mail or as may otherwise be required by this Ordinance or the Pennsylvania Municipalities Planning Code, as amended from time to time. Said notice shall be sent out by the Secretary of the Zoning Hearing Board or his assignee. Written notice shall be given at such time and in such manner as shall be prescribed by rules of the Board. In addition to the written notice provided for herein, notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing. Hearings shall be held within sixty (60) days from the date of the applicant's request, unless the applicant has agreed, in writing, to an extension of time. ***(amended by Ordinance No. 1-03)***

b. The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Municipality, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

c. The parties to the hearing shall be the Municipality, any person affected by the application who has made timely appearance of record before the Board and any other person, including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties, enter appearances, in writing, on forms provided by the Board for the purpose.

d. The chairman or acting chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

e. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine all adverse witnesses on all relevant issues.

f. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

g. The Board or the hearing officer, as the case may be, shall keep stenographic records of the proceedings.

h. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

i. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after said continued hearing. Each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, as amended, or of this Ordinance, shall contain a reference to the provisions relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties and the parties shall be entitled to make written recommendations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the hearing office. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within forty-five (45) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been

rendered in favor of the applicant unless the applicant has agreed, in writing, or on record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in subsection (2) of this section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
(amended by Ordinance No. 1-03)

j. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

SECTION 505 **Stay of Proceedings**

a. Upon filing of any proceeding referred to in Section 413 and during its pendency before the Board, all land development pursuant to any challenged Ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeal on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.

b. Court hearings and determination for posting of bonds shall be in accordance with Section 915.1(b), (c) and (d) of the Pennsylvania Municipalities Planning Code, as amended.

ARTICLE VI

DEFINITIONS

SECTION 601 Definition

For the purpose of this Ordinance, certain terms, phrases and words are defined as follows:

601.1 Tense, Gender and Number

Words used in the present tense include the future; words in the masculine gender include the feminine and the neuter; the singular number includes the plural and the plural the singular.

601.2 General Terms

The word "shall" or "must" is always mandatory; the word "may" is permissive. The words "used for" includes "designed for", "arranged for", "intended for", "maintained for", or "occupied for." The word "building" includes "structure" and shall be construed as if following by the phrase "or part thereof." The word "person" includes "individual", "profit or non-profit organization", "partnership", "company", "incorporated association", or other similar entities.

601.3 Terms, Phrases and Words not Defined

When terms, phrases, or words are not defined, they shall have their ordinarily accepted meanings or such as the context may imply.

601.4 Specific Terms ***(See Ordinance No. 2-01 adopted June 19, 2001)***

Terms or words used herein, unless otherwise expressly stated, shall have the following meanings:

Accessory Building: A subordinate building, the use of which is customarily incidental to and located on the same lot occupied by the principal building.

Accessory Use: A use customarily incidental and subordinate to and located on the same lot occupied by the principal use to which it relates.

Advertising Signs: See Signs, Advertising.

Agriculture: The cultivation of the soil and the raising and harvesting of the products of the soil, including, but not limited to, nursery, horticulture, forestry and animal husbandry.

Agriculture (Intensive): Specialized agricultural activities, including, but not limited to, mushroom production, poultry production and dry lot livestock production which, due to the intensity of production, necessitate development of specialized sanitary facilities. ***(See Ordinance No. 2-01)***

Alteration: Any change or rearrangement in the structural parts or in the existing facilities of a building or structure, or any enlargement thereof, whether by extension on any side or by an increase in height, or the moving of such building from one location or position to another.

Antenna: A system of electrical conductors that emit or receive radio waves.

Apartment: A multi-family dwelling, not exceeding three (3) stories in height containing three (3) or more separate dwelling units, on a lot which is held in single and separate ownership, having yards in common but which may also have other joint facilities.

Applicant: A landowner or developer, as hereinafter defined, who has filed an application for development, including his heirs, successors and assigns.

Attic: That part of a building which is immediately below and wholly or partly within the roof framing.

Authority or Municipal Authority: A body politic and corporate created pursuant to the Act of May 2, 1945 (Pl. 382, No. 164) known as the "Municipalities Authorities Act of 1945".

Basement: A story partly below the finished grade but having at least one-half of its height (measured from finished floor to finished ceiling) above the average level of the finished grade where such grade abuts the exterior walls of the building. A basement shall be considered as one story in determining the permissible number of stories.

Block: A tract of land or a lot or group of lots, bounded by streets, public parks, railroad rights-of-way, water courses or bodies of water, boundary lines of the Township, or by any combination of the above.

Block or Lot Frontage: That portion of a block or lot which fronts on a single street.

Board of Zoning Hearing Board: The Zoning Hearing Board of Perry Township, Berks County, Pennsylvania.

Building: Any combination of materials forming any structure which is erected on the ground and permanently affixed thereto, designed, intended, or arranged for the housing, shelter, enclosure, or structural support of persons, animals, or property of any kind. Structures divided by unpierced masonry division walls extending from the ground to the underside of the roof shall not be deemed to be separate buildings for the purpose of this Ordinance.

Building, Detached: A building surrounded by open space on all four sides within the same lot.

Building Line or (Building Setback Line): A line, established by the Zoning Ordinance, within a lot, defining the minimum distance between any structure or portion thereof to be erected or altered, and an adjacent right-of-way or street line.

Bulk: A term used to describe the size, volume, area, or shape of buildings or other structures and their physical relationship to each other, to open space, or to tracts of land, to lot lines, or to other buildings or structures.

Carport: A roofed-over structure open on two (2) or more sides and used in conjunction with a dwelling for the storage of private motor vehicles.

Cellar: A story partly below the finished grade, having at least one-half of its height (measured from finished floor to finished ceiling) below the average level of the adjoining finished grade where such grade abuts the exterior walls of the building. A cellar shall not be considered a story in determining the permissible number of stores.

Certificate of Use and Occupancy: A statement, based on an inspection, signed by the Zoning Officer, setting forth that a building, sign, and/or land complies with the Zoning Ordinance, or that a building, structure, sign, and/or land may be lawfully employed for specific uses or both.

Communications Equipment Building: A building and/or structure to be located on the site with the tower, which is necessary for the

storage of equipment used in the operation, maintenance and repair of the tower and/or attached equipment.

Conditional Use: A use not permitted by right but which may be permitted by the Governing Body, after a public hearing and review and comments by the Township Planning Commission, to occupy or use land and/or buildings or structures for specific purposes in accordance with the conditions contained in this Ordinance.

Dedication: The deliberate appropriation of land by its owner for any general and public use, reserving to himself no other rights than those that are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

Developer: Any landowner, agent of such landowner or tenant with the permission of such landowner, who makes or causes to be made subdivision of land or land development.

District: A portion of Perry Township within which certain uniform regulations and requirements, or combinations thereof, apply under the provisions of this Ordinance.

Dwelling: A building arranged, intended, designed, or used as the living quarters for one or more families living independently of each other upon the premises. The term "dwelling" shall not be deemed to include hotel, motel, rooming house or tourist home.

a. One-Family: A building arranged, designed, or intended for and occupied exclusively by one (1) family.

b. Two-Family: A building arranged, designed and intended for and occupied exclusively by two (2) families.

c. Multi-Family: A building arranged, designed and intended for occupancy by three (3) or more families living independently of each other and doing their own cooking therein.

Dwelling Unit: A building, or portion thereof, designed to be occupied as living quarters by a single housekeeping unit.

Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipalities or other government agencies of underground or overhead gas, electric, steam or water

transmission or distribution systems, collection, communication, supply, or disposal system. This does not include mobile telephone, microwave, television or radio transmission structures.

Family: (a) One or more persons related by blood, marriage, or adoption with not more than one (1) boarder, roomer, lodger, or (b) not more than three (3) unrelated persons living together as a single housekeeping unit and using cooking facilities and certain rooms in common.

Flood, One Hundred (100) Year: A flood that, on the average is likely to occur once every 100 years (i.e., that has a one (1) percent chance of occurring each year, although the flooding may occur in any year).

Flood Hazard Area: The area inundated by a one hundred (100) year flood.

Flood Plain: (1) a relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation of water; or (2) area subject to the unusual and rapid accumulation or runoff of surface water from any source.

Flood Plain, One Hundred (100) Year: The relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation on the average of one every 100 years.

Floodway: The channel of the stream or body of water and those portions of the flood plains which are reasonably required to carry and discharge flood water or flood flow of a one hundred (100) year flood interval.

Floodway Fringe: The area of the flood plain not lying within the floodway which may be covered by flood water of a 100-year flood interval.

Floor Area or Gross Floor Area: The gross floor space of all usable floors of the building or buildings, measured from the exterior faces of exterior walls or from the center line of walls separating buildings.

Garden Apartment: A multi-family dwelling, not exceeding three (3) stories in height, containing three (3) or more separate dwelling units which have common hallways and entrances on a lot which has yards in common but which may also have other joint facilities and services.

Garage, Private: An enclosed space for the storage of one or more private motor vehicles provided that no business, occupation, or service is therein conducted.

Gasoline Service Station: A structure or area used for the sale of gasoline or fuel, oil and/or other lubricating substances, which may include facilities for lubricating, washing, sale of accessories and otherwise minor servicing of motor vehicles, but not including body repair or the painting thereof.

Governing Body: The Township Supervisors of Perry Township, Berks County, PA

Grade: The mean curb level; when a curb level has not been established, grade shall mean the average finished ground elevation adjoining the buildings.

Height of the Building: The vertical distance from the mean grade at the front of the building (or the average of the street fronts, if building faces more than one street) to the highest point of the roof beams of a flat roof and to the mean height between eaves and ridge for gabled, hipped and pitched roofs.

Height of Signs or other Structures: The vertical distance measured from the average grade at the front of the structure or sign to its highest point, including the supporting structure.

Home Occupation: A use customarily conducted entirely within a dwelling unit and carried on by the inhabitants thereof, which is clearly incidental and secondary to the use of the dwellings and which does not change the character thereof or have any exterior evidence of such secondary use other than a small name plate, and in connection therewith there is not involved the keeping of a stock in trade.

Improvement: Any type of structure or paved section, excluding driveway, curb, sidewalk, planting strip or barrier to unchanneled motor vehicle entrance or exit.

Improvement Setback: The minimum distance and improvement must be set back from a street right-of-way line. No improvements are permitted within the improvement setback.

Junk Yard: A lot, land, or structure, or parts thereof used for the collection, storage, dismantling, salvage or sale of used and discarded materials, including, but not limited to, waste paper, rags,

scrap metal, or other scrap, salvage, or discarded material and vehicles. The deposit or storage of two or more unlicensed, wrecked or disabled vehicles shall be deemed to be a junk yard. The term junk yard shall not be deemed to include scrap processing operations or automobile shredding establishments.

Landowner: A legal or beneficial owner or owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any conditions), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other persons having a proprietary interest in land.

Lot: A legally defined tract or parcel of land, regardless of size, whether occupied or capable of being occupied by buildings.

Lot Area: The area contained within the property lines of a lot excluding space within all streets and within all permanent drainage easements, but including the areas of all other easements.

Lot, Corner: A lot at the point of intersection of and abutting on two (2) or more intersecting streets.

Lot, Interior: A lot other than a corner lot, the sides of which do not abut a street.

Lot, Through: An interior lot having frontage on two (2) streets.

Lot Coverage (Maximum Building Coverage): A percentage of the lot area which may be covered by structures and buildings.

Lot Width: The mean width measured at the building set-back line between side lot lines and parallel to the front lot line but in no case shall the street frontage be less than one-half (1/2) of the required lot width in the particular district.

Lot Line: Any line dividing one lot from another.

Mobile Home: A transportable single-family dwelling intended for permanent occupancy, contained in one unit or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

Mobile Home Lot: A parcel of land in a mobile home park,

improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

Mobile Home Park: A parcel or contiguous parcel of land which has been so designated and improved that it contains two (2) or more mobile home lots for permanent placement thereon of mobile homes.

Motel: A building or group of buildings containing individual rooms or apartment accommodations primarily for transients, each of which is provided with a separate exterior entrance and a parking space, and offered principally for rental and use by motor vehicle travelers. The term "motel" includes, but is not limited to, auto courts, motor courts, motor inns, motor lodges or roadside hotels.

Municipality: Shall mean Perry Township, Berks County, Pennsylvania.

Non-Conforming Lot: A lot the area or dimension of which was lawful prior to the adoption or amendment of this Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.

Non-Conforming Structure: A structure, or part thereof, manifestly not designed to comply with the applicable use provisions of this Zoning Ordinance, or amendment hereafter enacted, where such structure lawfully existed prior to the enactment of the Ordinance or amendment. Such non-conforming structures include, but are not limited to, non-conforming signs.

Non-Conforming Use: A use whether of land or of structure, which does not conform to the application regulations of the district in which it is located, either at the time of the enactment of the Ordinance or as a result of subsequent amendments thereto. However, no existing use shall be deemed non-conforming solely because of the existence of less than the required off-street parking spaces.

Official Zoning Map: The Perry Township Official Zoning Map.

Off-Street Parking Space: A space for the parking of one automobile with a minimum of two hundred (200) square feet measuring ten (10) feet by twenty (20) feet, exclusive of driveways, aisles and maneuvering space, having access to a public street.

Open Space: Unoccupied space open to the sky and on the same lot with the principal use.

Parking Lot: An off-street surfaced area designed solely for the parking of motor vehicles, including driveways, passageways and maneuvering space appurtenant thereto.

Paving: The installation of a concrete or macadam impervious surface.

Planning Commission: The Perry Township Planning Commission.

Public Hearing: A formal meeting held pursuant to public notice by the Governing Body intended to inform and obtain public comment prior to taking action in accordance with this Ordinance.

Public Meeting: A forum held pursuant to notice under the Act of July 3, 1986 (P.L. 388, No. 84) known as the "Sunshine Act".

Public Notice: Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the Municipality. Such notice shall state the time and place of the hearing and the particular nature of matters to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

Semi-Fireproof Construction: Construction in which all bearing walls, supporting members and exterior walls are made of masonry, concrete, steel or other equally fire-resistant material and in which the roof is of asbestos shingle or other similarly fire-resistant material.

Sign: Any structure, building, wall, or other outdoor surface, or any device or part thereof, which displays or includes any letter, word, model, banner, flag, pennant, insignia, device, or other representations used or announcement, direction, or advertisement. The word "sign" includes the word "billboard," but does not include the flag, pennant, or insignia of any nation, state, city or other political unit, nor public traffic or directional signs.

Sign, Business: A "sign" which directs attention to a business, profession or industry conducted on the premises or to products sold, manufactured or assembled upon the same premises upon which it is displayed. Signs offering premises for sale, rent or development, or advertising the services of professionals or building

trades during construction or alteration shall be deemed a "business sign".

Special Exception: A use permitted with special permission granted by the Zoning Hearing Board to occupy and use land or specific purposes in accordance with this Ordinance when such use is not permitted by right.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it or if there be no floor above it, then the space between any floor and the ceiling next above it. A basement, but not a cellar, shall be deemed to be a story. Each level of a split-level building, excluding cellars, shall be considered a 1/2 story.

Story, Half: Any space immediately below and wholly or partly within the roof framing, with or without a finished floor, where the clear height of not more than seventy-five (75) percent of such space has structural headroom of seven feet and six inches or more. Any space which has more than seventy-five (75) percent of its area having such headroom shall be deemed to be a full story.

Street: A strip of land, including the entire right-of-way (i.e., not limited to the cartway), intended for use as a means of vehicular and pedestrian circulation to provide access to abutting property. The word "street" includes thoroughfare, avenue, boulevard, court, drive, expressway, highway, lane and road.

Structure: Any material or combination of materials which are constructed or erected, the use of which requires location on the ground or attached to something located on the ground.

Town Houses: A multi-family structure consisting of three (3) or more but not more than eight (8) attached single-family dwelling units, each separated by an unpierced party wall, each single-family dwelling unit having a separate entrance from the outside and a semi-enclosed, private rear yard area.

Transmission Tower: The structure on which a transmitting and/or receiving antennas are located. An AM radio tower is its own transmitting antenna. This definition specifically excludes amateur radio antenna, citizen's band radio antenna, television receiving antenna and their supporting structure.

Usable Open Space: An unenclosed portion of the area of a lot which is not devoted to driveways, parking spaces, or principal

structures, including common buildings such as shelters, pavilions, or recreational structures centrally located, accessible to occupants of the building or buildings.

Use: The specific purpose for which land, sign, structure or building is designed, arranged, intended, or for which it may be occupied or maintained, or any activity, occupation, business, or operation which may be carried on. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

Variance: Relief granted by the Zoning Hearing Board from the terms and conditions of this Ordinance where literal enforcement would create practical difficulty or unnecessary hardship as a result of peculiar or unique conditions or circumstances pertaining to the lot in question.

Yard, Front: An unoccupied space open to the sky between an adjacent right-of-way and the building setback line which shall be drawn parallel thereto, at such distance therefrom as may be specified herein for any district, and extending for the full width of the lot.

Yard, Rear: An unoccupied space open to the sky between the rear lot line and a line drawn parallel thereto, at such distance therefrom as may be specified herein for any district, and extending for the full width of the lot.

Yard, Side: An unoccupied space open to the sky between the side lot line and a line drawn parallel thereto, at such distance therefrom as may be specified herein for any district, and extending from the front yard to the rear yard.

Zoning Map: The Perry Township Zoning Map.

Zoning Officer: The agent or official designated by the Governing Body to administrate and enforce the Zoning Ordinance of the Township.

Zoning Ordinance: The Perry Township Zoning Ordinance.

ARTICLE VII

MISCELLANEOUS

SECTION 701 Appeals

Proceedings for securing review of any ordinance, decision, determination or order of the Governing Body, its agencies or officer adopted or issued pursuant to this Ordinance shall be in accordance with the Pennsylvania Municipalities Planning Code, as amended.

SECTION 702 Severability

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 703 Public Utilities Corporation Exempted

This Ordinance shall not apply to any existing or proposed buildings, or extensions thereof, used or to be used by a public utility corporation if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

It shall be the responsibility of the Pennsylvania Utility Commission to ensure that both the corporation and the Municipality have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of party to the proceedings.

SECTION 704 Repeal of Conflicting Ordinances

All Ordinances or parts of Ordinances inconsistent herewith are hereby expressly repealed.

SECTION 705 Saving Clause

This Ordinance shall not be constructed or be held to repeal the Perry Township Zoning Ordinance of 1990, as amended, whether said Ordinance is expressly repealed or not, as to any offense committed against said former Ordinance or as to any act done, and penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under said former Ordinance, or in any way whatsoever to affect

any such offense or act as committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising under this Ordinance.

Section 706 Effective Date

This Ordinance shall become effective five (5) days after the date of final passage.

Duly enacted by the Board of Supervisors of Perry Township, Berks County, Pennsylvania, this 8th day of September, 1998, in lawful session duly assembled.

BOARD OF SUPERVISORS OF PERRY TOWNSHIP

by /s/ Richard D. Kline

/s/ Thomas L. McKinney

/s/ Mark Wm. Stitzel

ATTEST:

Miriam M. Kline

Secretary

ORDINANCE NO. 2-01

AN ORDINANCE OF THE TOWNSHIP OF PERRY, BERKS COUNTY, PENNSYLVANIA, AMENDING PERRY TOWNSHIP ZONING ORDINANCE NO. 4-98, AS AMENDED, AMENDING THE DEFINITION OF "AGRICULTURE (INTENSIVE)" FOUND IN SECTION 60t4, REMOVING INTENSIVE AGRICULTURAL ACTIVITIES AS A USE PERMITTED BY SPECIAL EXCEPTION IN THE R-A DISTRICT, AND, ADDING INTENSIVE AGRICULTURAL ACTIVITIES AS A USE PERMITTED BY CONDITIONAL USE IN SECTION 201.4 IN THE R-A DISTRICT, AND TO ESTABLISH CONDITIONAL USE PROCEDURES GENERALLY WHEN CONSIDERING APPLICATIONS FOR USE OF LAND FOR INTENSIVE AGRICULTURAL PURPOSES

BE IT ENACTED AND ORDAINED by the Perry Township Board of Supervisors, Berks County. Pennsylvania, and it is hereby enacted and ordained by the authority of the same, that Ordinance No. 4-98, entitled "The Perry Township Zoning Ordinance of 1998," is amended to read as follows:

Section 1. The definition of "Agriculture (Intensive)" in Section 601.4 of Ordinance No. 4-98 is amended to read as follows:

"Agriculture (Intensive) - The specialized agricultural activity that involves the raising, keeping, or production of livestock at a density greater than 2.0 animal units per acre. The maximum density permitted is 3.0 animal units per acre. Animal units, land area (based on land area available for manure application whether owned or leased, which can include several different non-contiguous locations) and animal density shall be as defined and

calculated in the Pennsylvania Nutrient Management Act, 25 Pa. Code § 83. The maximum number of animal units permitted at any one location shall not exceed 1,000. For intensive livestock activities, location shall mean all the contiguous land owned or leased for the site of the intensive agricultural operation (i.e., the buildings)

All mushroom growing and production of any size shall be considered as intensive agriculture. The maximum size of a mushroom growing and production operation shall be 50,000 square feet at any one location. For mushroom production, location shall mean ail the contiguous land owned or leased for the site of the intensive agricultural operation (i.e., the buildings).

Greenhouses exceeding a gross aggregate floor area of 20,000 square feet for production shall be considered as intensive agriculture. The maximum aggregate floor area of greenhouse production permitted shall be 50,000 square feet at any one location. For greenhouses, location shall mean all the contiguous land owned or leased for the site of the intensive agricultural operation (i.e., the buildings).

Intensive agriculture shall be considered as a principal use, and buildings housing intensive agricultural use shall be considered as principal buildings. Multiple intensive agricultural structures at the same location and/or one residence serving the agricultural intensive use at the same location shall not be subject to the requirements of Section 301.3 of this Ordinance.

Section 2. Article II, Section 201.3, entitled "Uses Permitted by Special

Exception," is hereby amended to remove subsection (c), "Intensive agricultural activities," from the Rural Agriculture District, thereby eliminating Intensive agricultural uses in the Rural Agriculture District by special exception.

Section 3. Article II, Section 201.4, entitled "Uses Permitted by Conditional Use," is hereby amended to add a new subsection (d), "Intensive Agricultural Activities," subject to the provisions of Section 410.3.

Section 4. Article IV, Section 410, Conditional Uses, is hereby amended to add a new section, entitled "410.3, Intensive Agriculture Activity," which shall read as follows:

"410.3 Intensive Agriculture Activity Requirements and Conditions.

A. Intensive agriculture activities are allowed in the R-A District provided that such activity shall be setback 1,500 feet from another zoning district boundary, and/or an existing residence located on a different property, except if the different property owner provides a written, notarized and recorded waiver of the setback requirement. Any such waiver must also be transferable to the successive owners of the different property.

B. Residency requirements: An owner, partner, or corporate officer with at least a 25% interest in the land, buildings or the livestock, or the farm operator, if not an owner, partner or corporate officer, must physically reside on the property or within 1 mile of the operation.

C. A minimum lot size of 25 acres is required for intensive agriculture activities. Minimum setback from public roads, front, side and rear yards for buildings housing an intensive agricultural use shall be 300 feet. Maximum building height shall be 35 feet (excluding appurtenances). This setback does not apply to residences, equipment sheds, other accessory structures or facilities which are regulated by the Pennsylvania Nutrient Management Act.

D. The application shall clearly identify, both in writing and on suitable maps, the total land areas included for the actual site of the buildings and/or facilities, and the land areas required for the utilization of manure in conformance with the Nutrient Management Plan. This shall include all land under direct ownership, equity ownership, and/or lease agreements. Copies

of all necessary deeds of record, agreements of sale and lease agreements shall be submitted with the application. Any manure brokerage agreements necessary for the operation shall also be included with the application.

E Commercial composting of materials brought in from off-site, composting them and then exporting them off-site without being utilized or incorporated in a permitted agricultural use shall be prohibited.

F. Solid and liquid wastes shall be stored and disposed of in a manner to avoid creating insect or rodent problems, or a public nuisance. No emission of noxious or unpleasant gases or odors shall be permitted in such quantities as to be offensive outside the lot lines of the tract occupied by an intensive agricultural user.

G. Under roof "dry lot" feeding stations shall be permanently paved.

H. A Land Development Plan must be submitted, reviewed and approved by the Township.

1. No building or intensive agricultural facility shall be constructed within the 100 year flood plain of any stream.

J. A Storm Water Management Plan must be submitted or included in the Land Development Plan.

K. An Environmental Emergency Response Plan must be submitted. The Plan must cover accidental and unintentional releases from the manure storage and transport facilities.

L. Copies of final, approved Plans and documents prepared for other agencies must be submitted such as:

Nutrient Management Plan.
Sediment and Erosion Control Plan for new construction.
Conservation Plan for the farm covering the manure application areas.
Manure holding or treatment structures and/or impoundments with an Engineer's certification.

M. Copies of any permits received from other agencies must be submitted.

N. A listing of all the owners (individuals, partners or corporate officers) and operators' names, addresses and phone numbers (both day and

evening) must be submitted.

O. Payment of an application fee and establishment of an escrow account to cover land development review and future inspection costs incurred by the Township.

P. In addition to meeting the above required conditions, the Governing Body (Supervisors) may require the following conditions, depending on, the specific site conditions, size and type of proposed operation, topography and other potential impacts:

(1) The repositioning or elimination of proposed structures, imposition of greater setbacks, or downsizing of the facilities to better fit the particular property and site conditions biased on topography, visual impact, prevailing winds, presence of neighboring residential areas, tree masses or known geological concerns.

(2) Require the immediate implementation of the Nutrient Management Plan and/or Sediment and Erosion Control Plans. Require that certain Best Management Practices be utilized in the barnyard, other concentrated animal areas, or elsewhere on the farmland to minimize stream pollution, erosion, and/or odor.

(3) Require a water supply study to ascertain if the proposed facility will have any detrimental effects on the ground water supply and quality. Require conservation terraces and/or detention structures to reduce surface water runoff and stream pollution.

(4) Require geological or foundation studies and analysis.

(5) Require the planting of buffer zones of evergreen and deciduous trees to reduce and disperse odors. and/or reduce visual impact.

(6) Require the regular use of bacteria, additives or other conditioners or practices to the manure storage facility, or the best available technological practices, to reduce odors. Require that manure not be spread on holidays and certain weekends. Require that odors not exceed the normal agricultural odors that currently may occur in the municipality at various times of the year.

(7) Require a plan addressing the reduction and control of flies.

(8) Require a leak detection system on the manure storage or treatment facilities.

(9) Require time limits on the incorporation into the soil of spread manure.

(10) Require yearly documentation of any leased land or

manure broker agreements that are necessary to the operation of the facility.

(11) Require yearly, or other time period, renewal of a Certificate of Use and Occupancy for the proposed operation. Such renewal may include a review of the performance and compliance history of the facility. Based on the performance review, the governing body may impose additional requirements, and/or require the reduction in the density or total animal units until such time as the facility is again in conformance with these regulations. A Certificate of Use and Occupancy will not be re-issued until the facility is in conformance with these regulations or other interim standards have been agreed to.

(12) Encourage good, modern farm management techniques. Require attendance at agricultural-related training programs and seminars.

(13) Require that certain methods of mortality disposal be or not be employed.

(14) Require insurance bonding for truck or equipment damage to the Township-owned roads and bridges.

(15) Require insurance bonding for manure spills, and/or surface and ground water contamination.

(16) Require traffic impact study.

Section 5. Article V, Section 503, Special Exception Conditions, is hereby amended to eliminate Section 503.1, entitled "Intensive agricultural activity," in its entirety.

Section 6. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

Section 7. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect nor impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared to be the intent of the

Board of Supervisors of the Township of Perry that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part not been included herein.

Section 8. This Ordinance shall become effective upon its adoption and enactment as required by law.

DULY ENACTED AND ORDAINED by the Board of Supervisors of Perry Township, Berks County, Pennsylvania, this 19th day of June, 2001, in lawful session duly assembled.

BOARD OF SUPERVISORS OF
PERRY TOWNSHIP

Thomas L. McKinney
Chairman

Richard E. Kline
Member

Mark Wm. Stitzel
Member

ATTEST:

Miriam M. Kline
Secretary

ORDINANCE NO. 1-03

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF PERRY TOWNSHIP TO PERMIT NO-IMPACT HOME-BASED BUSINESSES IN ALL RESIDENTIAL ZONES, TO AMEND PROCEDURES FOR LANDOWNER CURATIVE AMENDMENTS AND HEARINGS BEFORE THE ZONING HEARING BOARD, TO REVISE AND AMEND AREA AND DIMENSIONAL REQUIREMENTS IN ALL ZONING DISTRICTS, TO AMEND PROVISIONS OF THE RURAL AGRICULTURAL DISTRICT TO ALLOW FOR ADDITIONAL FARM DWELLINGS ON A FARM PARCEL AND TO ADD A NEW SECTION 304.4 REGULATING BILLBOARDS

WHEREAS, the Pennsylvania legislature, by and through Act 43 of 2002, enacted certain changes to the Pennsylvania Municipalities Planning Code (which is formally known as the Act of July 31, 1968 (Pl. 805, No. 247) ("Municipalities Planning Code"); and

WHEREAS, the Board of Supervisors of Perry Township deems it necessary to implement certain changes to its Zoning Ordinance in order to comply with the changes mandated by Act 43 of 2002.

WHEREAS, the Board of Supervisors of Perry Township further deems it necessary to revise portions of the Zoning Ordinance to amend area and dimensional requirements for all zoning districts, to provide for additional farm dwellings on farm parcels within the Rural Agricultural District and to adopt certain regulations to promote the health, safety and welfare with regard to the placement of billboards in and along the Route 61 corridor.

NOW, THEREFORE, be and it is hereby resolved by the Board of Supervisors of Perry Township, Berks County, Pennsylvania, as follows:

SECTION 1. **No-Impact Home-Based Businesses Permitted Use By Right**

A. Section 202.1 of the Zoning Ordinance of Perry Township (the "Zoning Ordinance") is hereby amended to add a new Section 202.1(d), which shall state in full: "No-impact home-based businesses, as such term is defined in Section 107(a) of the Pennsylvania Municipalities Planning Code, as amended, except that such permitted use shall not supercede the rights of any deed restriction, covenant or agreement restricting the use of land, nor any master deed, bylaw or other document applicable to a common interest ownership community."

B. Section 203.1 of the Zoning Ordinance is hereby amended to add a new Section 203.1(h), which shall state in full: "No-impact home-based businesses, as such term is defined in Section 107(a) of the Pennsylvania Municipalities Planning Code, as amended, except that such permitted use shall not supercede the rights of any deed restriction, covenant or agreement restricting the use of land, nor any master deed, bylaw or other document applicable to a common interest ownership community."

C. Section 204.1 of the Zoning Ordinance is hereby amended to add a new Section 204.1(e), which shall state in full: "No-impact home-based businesses, as such term is defined in Section 107(a) of the Pennsylvania Municipalities Planning Code, as amended, except that such permitted use shall not supercede the rights of any deed restriction, covenant or agreement restricting the use of land, nor any master deed, bylaw or other document applicable to a common interest ownership community."

SECTION 2. Procedure For Landowner Curative Amendments

The first sentence of Section 407.1(f)(2) of the Zoning Ordinance is hereby amended to state in full: "The hearing shall be conducted in accordance with procedures established in Section 908 of the Pennsylvania Municipalities Planning Code, as amended; provided, however, that the deemed approval provisions of Section 908(1.2) and (9) shall not apply and the provisions of Section 916.1 of the MPC, 53 P.S. § 10916.1, shall control."

SECTION 3. Revisions to Rules for Zoning Hearing Board Hearings

A. Section 504.3(a) of the Zoning Ordinance is hereby amended to replace the final sentence of such provision with the following language: "The first hearing before the board hearing officer shall be commenced within sixty (60) days from the date of receipt of the applicant's request, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within forty-five (45) days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. Any party aggrieved by the schedule or progress of the hearings may apply to the Court of Common Pleas for judicial relief. The hearing(s) shall be completed no later than one hundred (100) days after the completion of the applicant's case-in-chief, unless extended for good cause upon application to the Court of Common Pleas. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (1 00) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief, provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional

hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal."

B. Section 504,3(i) of the Zoning Ordinance is hereby amended to replace the fifth sentence thereof (beginning with the words "Where the Board") with the words: "Except for challenges filed under Section 916.1 of the Pennsylvania Municipalities Code, where the Board fails to render the decision within the period required by this subsection, fails to commence, conduct or complete the required hearing within sixty (60) days from the date of the applicant's request for a hearing or fails to complete the hearing within one hundred (100) days after the completion of the applicant's case-in-chief, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time or such period has been extended for good cause upon application to the Court of Common Pleas as provided in Section 908(1.2) of the Pennsylvania Municipalities Planning Code."

SECTION 4. C-1 Highway Commercial District Changes

A. Section 205.1(d) of the Zoning Ordinance is hereby amended to i replace the term "drive-ins" with the term "drive-in theaters."

B. Section 205.3(a) of the Zoning Ordinance is. hereby revised to delete the words "and drive-in establishments."

C. Section 205.5 of the Zoning Ordinance is hereby revised such that the title of the provision shall be "Minimum Lot Size and Width" and the provision shall state in full: "The minimum lot size is twenty thousand square feet (20,000') and the minimum lot width is one hundred feet (100`), and all such lots must be connected to a municipal sewer system."

D. Section 205.6(a)(1) of the Zoning Ordinance is hereby revised such that the term "fifteen (15)" is replaced with the term "five (5)."

E. Section 205.6(b)(1) of the Zoning Ordinance is hereby revised such that the two-way aisle width for 30-degree angle parking is revised to eighteen feet (18') from fifteen feet (15').

F. Section 205.8 of the Zoning Ordinance is hereby revised to state in full: "All means of ingress or egress to any public street or State highway shall be located at least two hundred (200) feet from any intersecting street or streets and shall be designed to conduct traffic in a safe manner, The minimum distance between any on-lot and/or adjacent lot ingress and egress points shall be at least two hundred (200) feet along Route 61 (Pottsville Pike) and Route 662 (Moselem Springs Road). The developer shall be responsible for the purchase and erection of any necessary traffic control devices and the construction of additional turning and/or acceleration lanes as may be required by PennDOT or by the Township Supervisors. All traffic control

devices and roadway construction shall meet PennDOT warrant standards and design criteria."

SECTION 5. **C-2 Mixed Use District Changes**

A. Section 206.1(h) of the Zoning Ordinance is hereby revised to --N/ change the term "drive-ins" to "drive-in theaters."

B. Section 206.4 of the Zoning Ordinance is hereby revised to rename the provision "Minimum Lot Size and Width," to change the phrase "Public water only" **to** state "Public water or public sewer only," and to add at the end of the provision the words: "All such lots shall have a minimum width of one hundred feet (100')."

C. Section 206.6 of the Zoning Ordinance is hereby revised to change the Maximum Building Height from twenty-five feet (25') to thirty-five feet (35').

SECTION 6. **Special Exception Conditions**

Section 503.6 of the Zoning Ordinance is hereby deleted and is no longer of binding legal effect.

SECTION 7. **Rural Agriculture District**

Section 201.1 of the Zoning Ordinance is hereby amended to add subparagraph (e), as follows:

"e. Additional Farm Dwelling on the same farm parcel, subject to:

1. A maximum of one additional single-family farm dwelling, in addition to the existing farm dwelling, will be permitted on a designated farm parcel.

2. The additional farm dwelling shall not be a separate lot or subdivided from the farm parcel. The additional farm dwelling shall not be included in the new residence quota allowed per Section 503.9.

3. The additional farm dwelling shall remain in the same ownership as the farm on which it is constructed.

4. The additional farm dwelling shall be constructed in the same general vicinity as the first farm dwelling, or in the same general vicinity as buildings used for the general agricultural production on the farm, and shall not occupy, along with its surrounding cartilage, more than one acre of the farm. A proposed additional farm dwelling that is not constructed in the vicinity of the existing farm dwelling or other agricultural

buildings would not qualify as an additional farm dwelling, and shall then comply with all the requirements of Section 503.9.

5. The necessary planning and permitting for adequate sewage disposal is provided.

6. All building setbacks, distances between buildings, building coverage and other provisions of this Ordinance are provided.

7. The minimum habitable floor area of any new additional farm dwelling shall be nine hundred fifty (950) square feet. The additional farm dwelling shall be constructed with a continuous masonry or concrete foundation wall under the outer wall limits of the dwelling."

SECTION 8. **Billboards**

Section 304 of the Zoning Ordinance is hereby amended to add a new subsection 304.4, entitled "Billboards," as follows:

"304.4. Billboards.

A. On or off premises signs not covered elsewhere in this Ordinance are considered billboards and are subject to the regulations in this subsection 304.4.

B. Billboards are a permitted accessory use in the C-1, C-2, 1-1 and L-1 zoning districts only, and are specifically limited to locations along the Route 61 (Pottsville Pike) corridor only.

C. No billboard shall be located within one thousand (1,000) feet of another billboard on the same side of the road, or within five hundred (500) feet of another billboard on the opposite side of the street regardless of the direction of advertising. No billboard shall be erected within five hundred (500) feet of any single-family residential dwelling or within five hundred (500) feet of any residential district zoning boundary line.

D. All billboards shall be setback a minimum of ten (10) feet from the right-of-way line for Route 61, twenty (20) feet from the right-of-way lines of other streets, twenty (20) feet from the side property lines and twenty-five (25) feet from the rear property lines. No billboard shall be set back more than two hundred (200) feet from the right-of-way line of Route 61. No billboard or its supporting structure shall be located within the clear sight triangle at any street intersection, or otherwise obstruct the view of traffic.

E. Billboards may have one or two signs per face, and may be double faced, back to back, or V type. The maximum internal angle of the V type sign shall be forty-five (45) degrees. Back to back and V type billboards are considered as one billboard. The maximum size of the billboard sign shall be six hundred (600) square feet on any one face, including borders and trim, but excluding the support structure and base or apron. The maximum height of the billboard, including the support structure, shall not exceed thirty-five (35) feet.

F. No billboard shall contain a flashing light or other devices or sign copy that are similar to traffic control devices and signs. No billboard shall be used to illustrate or advertise any lewd, pornographic or lascivious acts.

G. Any lighting shall be directed at the sign face only, and shall not be directed or permitted to shine on any roadways or buildings not on the same premises. No billboard shall be illuminated between the hours of 11:00 p.m. and 6:00 a.m.

H. Written certification shall be provided that the design, construction and installation of the billboard and supporting structure meets all the requirements of the International Building Code or its successor building code.

I. All billboards shall be maintained and kept in safe structural condition and clean appearance."

SECTION 9. **Area And Dimensional Requirements**

The various sections of the Zoning Ordinance regarding all zoning districts are amended to provide for the area and dimensional requirements set forth on the chart attached hereto as Exhibit "A."

SECTION 10. **Further Amendments to Zoning Ordinance**

Any resolution, ordinance or part of any resolution or ordinance inconsistent herewith and any amendments thereof are hereby expressly repealed

except as provided for in this Ordinance. However, it is expressly provided that the provisions of this Ordinance shall not affect the validity of and shall be construed consistently with the Zoning Ordinance, as amended. If there is a conflict, the more restrictive provision shall control.

SECTION 11. **Severability**

Should any clause, section or other part of this Ordinance be held invalid or unconstitutional by any Court of competent jurisdiction, then the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 12. **Effective Date**

This Ordinance shall become effective immediately upon adoption by the Township of Perry Township.

DULY ENACTED AND ORDAINED this 11th day of November, 2003,

by the Board of Supervisors of Perry Township in public session duly assembled.

ATTEST:

Miriam M. Kline
Secretary

BOARD OF SUPERVISORS OF PERRY TOWNSHIP, PENNSYLVANIA

By: Richard W. Kline
Chairman

84B97 0

Perry Township, Berks County, Pennsylvania

Zoning District Table of Area and Dimensional Requirements.

Zoning District	Min Lot Area Acres or SquareFeet	Min Lot Width *	Front Yard Building Setback	Side Yard	Rear Yard	Max Building Coverage	Max Building Height	Max Paved Area	Min Dist Twix Bldgs	Improv. Setback
R-A	2 acres	200'	75'	25'	25'	10%	35', 2.5s			
R-1	43,560 [1]	100'	50'	15'	25'	20%	35', 2.5s			
	30,000 [2]	100'	50'	15'	25'	20%	35', 2.5s			
	20,000 [3]	80'	50'	15'	25'	20%	35', 2.5s			
R-2 sfr	30,000 [1]	80'	30'	15'	25'	20%	35', 2.5s			
	15,000 [2]	80'	30'	15'	25'	20%	35', 2.5s			
	10,000 [3]	80'	30'	15'	25'	20%	35', 2.5s			
R-2 tfr	17,500 [1]	100'	30'	15'	25'	20%	35', 2.5s			
	10,000 [2]	100'	30'	15'	25'	20%	35', 2.5s			
	7,500 [3]	100'	30'	15'	25'	20%	35', 2.5s			
R-3	5 acres	300'	60'	35'	25'	15%	35', 3s			
G.Apts	(3,000) [3]			15'	25'					
T.Hses	(6,000) [3]			15'	25'					
C-1	20,000	100'	25'	20'	25'	35%	35'	45%	30'	
C-2	43,560 [1]	100'	25'	20'	25'	35%	35'	45%	30'	
	30,000 [2]	100'	25'	20'	25'	35%	35'	45%	30'	
	20,000 [3]	100'	25'	20'	25'	35%	35'	45%	30'	
I-1	2 acres [4]	150'	60'	40'	25'	20%	35'			
	1 acre [5]	150'	60'	40'	25'	20%	35'			
L-I	2 acres [4]	150' [4]	35'	20'	25'	50% [6]	35'	50% [6]		10'
	1 acre [5]	150' [4]	35'	20'	25'	50% [6]	35'	50% [6]		10'

sfr: single family residential tfr: two family residential

Compiled 12/10/01; Revised 9/03/03

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* Measured at the building setback line. The street frontage shall not be less than ½ the required lot width.

[1] With on-site sewage disposal and well.
[2] With public sewer or water.
[3] With public sewer and water.

[4] Without public sewer.
[5] With public sewer.

[4] Minimum lot width at both the street line and the building setback line.

[6] Total of Building and Paved Area 80% maximum. Area not covered by Building and Paved Area 20% minimum.

ORDINANCE NO 1-05

AN ORDINANCE OF THE TOWNSHIP OF PERRY, BERKS COUNTY, PENNSYLVANIA, AMENDING PERRY TOWNSHIP ZONING ORDINANCE NO. 4-98, AS AMENDED, AMENDING THE ZONING MAP TO DESIGNATE CERTAIN LANDS EAST OF BELLEVUE AVENUE, NORTH OF DREIBELBIS MILL ROAD AND WEST OF ALLENDALE ROAD, CONTAINING 49.70 ACRES, OWNED BY EUGENE BELL AS R-2 MEDIUM DENSITY RESIDENTIAL

BE IT ENACTED AND ORDAINED by the Perry Township Board of Supervisors, Berks County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, that Ordinance No. 4-98, entitled "The Perry Township Zoning Ordinance of 1998," and the Zoning Map thereto is amended to provide:

Section 1. Forty-nine and 70 one hundredth (49.70) acres, as shown on Exhibit "A" attached hereto and by reference made a part hereof, owned by Eugene Bell and situate East of Bellevue Avenue, North of Dreibelbis Mill Road and West of Allendale Road, is to be designated as a R-2 Medium Density Residential Zone on the Zoning Map of Perry Township.

Section 2. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

Section 3. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect nor impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared to be the

intent of the Board of Supervisors of the Township of Perry that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part not been included herein.

Section 4. This Ordinance shall become effective upon its adoption and enactment as required by law.

DULY ENACTED AND ORDAINED by the Board of Supervisors of Perry Township, Berks County, Pennsylvania, this 8th day of March, 2005, in lawful session duly assembled.

BOARD OF SUPERVISORS OF PERRY TOWNSHIP

Chairman

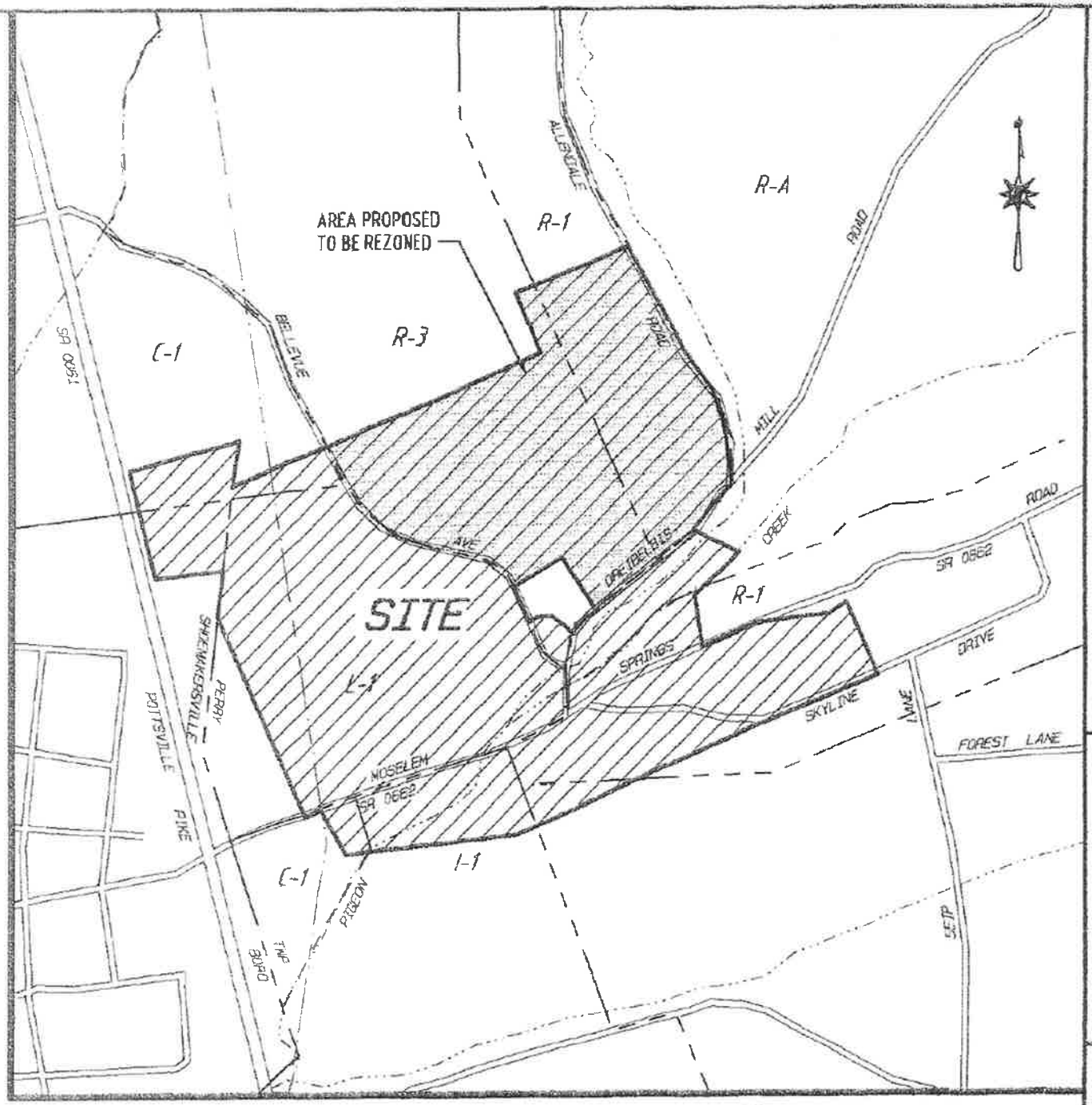
Member

Member

ATTEST:

Secretary

EXHIBIT "A"



VICINITY MAP

1" = 800'

SLIT HATA

ORDINANCE NO. 3-05

AN ORDINANCE OF THE TOWNSHIP OF PERRY, BERKS COUNTY, PENNSYLVANIA, AMENDING THE EXISTING PERRY TOWNSHIP ZONING ORDINANCE NO. 4-98, AS AMENDED, BY ADOPTING COMPREHENSIVE REVISIONS TO SAID ZONING ORDINANCE, SPECIFICALLY CREATING A NEW ZONING DISTRICT SECTION 209 CU-COMMERCIAL LIGHT INDUSTRIAL DISTRICT FOR THE FOLLOWING PARCELS, 4493-01-28-8953, 4493-01-29-3936, 4493-01-29-4444, 4493-01-29-6767. 4493-01-36-5166, 4493-01-36-5365, 4493-01-36-6388, 4493-01-36-7570, 4493-01-36-8559. 4493-01-37-3009, 4493-01-38-2008, 4493-01-38-5959, 4493-01-38-6579, 4493-01-38-6865, 4493.01-38-6912, 4493.01-38-7728, 4493-01-38-7732, 4493-01-38-8588. 4493-01-38-8624, 4493-01-38-9407, 4493-01-39-0591, 4493-01-39-1464, 4493-01-39-2288, 4493-01-39-2317, 4493-01-39-3250, 4493-01-39-4096, 4493-01-39-4133, 4493-01-39-6130. 4493-01-45-5554, 4493-01-46-2390, 4493-01-46-3982, 4493-01-46-5951. 4493-01-46-7064, 4493-01-47-2765, 4493-01-47-2835, 4493-01-47-4192, 4493-01-47-4255, 4493-01-48-0077, 4493-01-48-4459, 4493-01-48-5178, 4493-01-48-6252, 4493-01.48-7245, 4493-01-48-8229, 4493-01-48-8391, 4493-01-48-9353, 4493-02-57-4784, 4493-02-58-0335, 4493-02-58-1318, 4493-02-58-2402, 4493-02-58-8859, 4493-02-59-1577, 4493-02-65-7412, 4493-02-67-5678, 4494-03-20-8171, 4492-03-41-2213, AMEND SECTION 106 TO AMEND THE OFFICIAL ZONING MAP OF PERRY TOWNSHIP TO PROVIDE FOR A CLI DISTRICT, AMEND SECTION 204.4 MINIMUM LOT SIZE, LOT WIDTH AND LOT AREA PER DWELLING UNIT IN THE R-3-HIGH DENSITY RESIDENTIAL DISTRICT TO ADD A MINIMUM LOT AREA OF 2,000 SQUARE FEET AND MINIMUM LOT WIDTH AT BUILDING LINE OF 20 FEET FOR INDIVIDUAL TOWNHOUSE UNITS AND TO AMEND SECTION 204.6 MAXIMUM BUILDING HEIGHT AND COVERAGE TO INCREASE THE MAXIMUM BUILDING COVERAGE. INCLUDING ACCESSORY STRUCTURES TO TWENTY PERCENT (20%), AND AMENDING THE PERRY TOWNSHIP SUBDIVISION ORDINANCE NO, 1-1990, SECTION 402.1.e, ALL REMAINING PROVISIONS OF THE ZONING ORDINANCE AND SUBDIVISION ORDINANCE TO REMAIN IN FULL FORCE AND EFFECT

WHEREAS, the Route 61 Corridor, which is a highly traveled highway, is located within the borders of Perry Township traversing the Township in a north/south direction;

WHEREAS, the Board of Supervisors of Perry Township believe it is

important to provide for and enhance the commercial and industrial opportunities within the Route 61 Corridor while preserving the rural agricultural nature of the majority of the Township;

WHEREAS, commercial and industrial development should take place along major highway arteries such as the Route 61 Corridor;

WHEREAS, areas presently within the Route 61 Corridor are zoned residential and there is not sufficient land available for commercial and industrial development in this Corridor;

WHEREAS, the Township has studied traffic issues and enacted an Ordinance pursuant to Act 209 allowing for traffic impact fees to be assessed to all developments within the traffic impact area;

WHEREAS, it is in the intent of this Ordinance to enact and make administrative and substantive revisions to the existing regulatory provisions of the Zoning Ordinance of Perry Township Ordinance No. 4-98, as amended;

WHEREAS, it is the intention of the Board of Supervisors to create a new Zoning District and to amend the Township Zoning Map;

WHEREAS, the Board of Supervisors wish to amend Section 204.4 and Section 204.6 to make changes that are more consistent with development in an R-3 Residential District; and

WHEREAS, the Board of Supervisors wish to reaffirm the original Zoning Ordinance No. 4-1998 and all subsequent amendments thereto.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby ordained and enacted by the Township of Perry, County of Berks, Commonwealth of

Pennsylvania, as follows:

Section 1. Perry Township Zoning Ordinance No. 4-98, as amended, and the Perry Township Zoning Map, as amended, are to be amended by adopting by reference comprehensive revisions to said Zoning Ordinance and to said Zoning Map, including the following revisions to the existing sections:

(a) Section 107 — Classes of Districts.

For the purpose of this Ordinance, the Municipality is hereby divided into classes of districts which shall be designated as follows:

R-A -Rural-Agriculture
R-1 - Low Density Residential
R-2 - Medium Density Residential
R-3 - High Density Residential
C-1 - Highway Commercial
C-2 - Mixed Use
1-1 - Industrial
L-I - Light Industrial
CLI - Commercial Light Industrial District

(b) Section 204. 4 — Minimum Lot Size, Lot Width and Lot Area per Dwelling Unit.

a. Minimum Lot Area per dwelling unit (sq. ft.)

Garden Apartment	
With public water and sewer	- 3,000
Without public water and sewer	(not permitted)
Town House	
With public water and sewer	- 2,000
Without public water and sewer	(not permitted)

b. Minimum Lot Size (acres) 5

c. Minimum Lot Width (feet) 20

(c) Section 204.6 — Maximum Building Height and Coverage.

Maximum Building Height (feet)	- 35
(stories)	- 3
Maximum Building Coverage including accessory structures	- 20%

(d) Add new Section 209 with the regulatory language for the Commercial Light Industrial District as contained in **Appendix 1** attached hereto and incorporated herein by reference in its entirety.

Section 2. The Zoning Map is amended to create a new Commercial Light Industrial District with the properties as identified on the proposed Zoning District Map attached hereto as **Appendix 2** and incorporated herein by reference, and the list of PIN numbers for the properties to be included in this District are attached hereto as **Appendix 3** and incorporated herein by reference.

Section 3. Perry Township Subdivision Ordinance No. 1-1990, Section 402.1.e, is amended to read as follows:

Section 402.1 General Standards for Streets.

(e) Where a subdivision or land development abuts or contains an existing street or intersection of improper width, alignment, grade or that does not meet other minimum standards addressed in this Ordinance, the Municipal Planning Commission may (1) require the dedication of additional sufficient land to widen the street, or otherwise correct the alignment deficiencies, and may (2) also require that the on-site deficiencies are physically improved or corrected to meet the minimum standards provided herein.

Section 4. All remaining provisions of Perry Township Zoning Ordinance No. 4-1998, as amended, and Perry Township Subdivision Ordinance No. 1-1990 shall remain in full force and effect.

Section 5. In the event any provision, section, sentence, clause or

portion of this Ordinance shall be held to be valid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any of the remaining Ordinance. It is hereby declared to be the intent of the Board of Supervisors of the Township of Perry that the remainder of this Ordinance shall be and remain in full force and effect notwithstanding the fact that such portion thereof shall be invalid or unconstitutional.

Section 6. All Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

Section 7. This Ordinance shall take effect five (5) days subsequent to its passage.

DULY ENACTED AND ORDAINED by the Board of Supervisors of Perry Township, Berks County, Pennsylvania, this 6TH day of September, 2005, in lawful session duly assembled.

BOARD OF SUPERVISORS OF PERRY TOWNSHIP

Chairman

Member

Member

ATTEST:

Miriam M. Kline

Secretary

APPENDIX 'I

Section 209 Commercial Light Industrial District

209.1 The intent of this district section is to provide a mixture of commercial and light industrial uses in the Route 61 Corridor. The creation of this district abuts existing residential uses. Flexibility in design criteria, setbacks and types of uses shall be important planning considerations for development within this district. This district shall encourage development that is able to access Route 61 and to provide for commercial and industrial growth that supports the community.

209.2 Permitted Uses. Land and buildings in the CLI District may be used for the following purposes:

a. Agriculture, horticulture
b. Nurseries, greenhouses
c. Forestry
d. Roadside stands for farm products
e. Agricultural related businesses
f. Outdoor recreation, camps and golf courses
g. Retail stores, service establishments, dry cleaning services
h. Business and professional office buildings
i. Restaurants
J. Convenience stores with sales of gasoline as an accessory use
k. Motor vehicle service stations
l. Auto, motor home, camper sales and services
m. Carwash
n. Wholesale businesses
o. Storage and warehousing
p. Mechanical and vehicle repair
q. Outdoor material, equipment, vehicle, machinery sales and storage
r. Building and non-hazardous materials storage, sales and distribution
s. Printing and publishing operations
t. Mini warehouses and storage
u. Processing, packaging food and beverage
v. Processing, packaging cosmetics and drugs
w. Manufacture of beverages, cosmetics, clothing, luggage, plastic products, wood products, rubber products, paper products and sporting products
x. Light metal processing

y. Manufacture of products from previously prepared materials, including leather

209.3 The following uses and their accessory uses may be permitted when authorized as a special exception by the Zoning Hearing Board, all subject to the provisions of Sections 502 and 503:

a. Theaters
b. Bowling alleys
c. Hotels, motels
d. Funeral homes
e. Telecommunication towers
f. Indoor storage, assembly, testing and manufacturing with no retail sales

209.4 Area, Yard and Height Requirements Maximum Permitted

Maximum Permitted:

Building Height	- 35 feet
Maximum Building Coverage	- 50%
Paved Area	- 50%
Total of Building and Paved Area Not to Exceed	- 80%

Minimum Requirements:

Lot Size with public sewer	-1 acre
Lot Size — without public sewer	- 2 acres
Lot Width:	
At Street Line	-150 feet
At Building Setback Line	150 feet
Building Setback	- 35 feet
Improvement Setback	- 10 feet
Side Yard:	
Total	- 40 feet
One Side	- 20 feet
Rear Yard	- 20 feet
Area Not Paved Nor Covered by Buildings	- 20%

Minimum requirements for Side Yard and Rear Yard Setbacks shall be increased by 100% for each side yard or rear yard which directly abuts a residential use or a residential district.

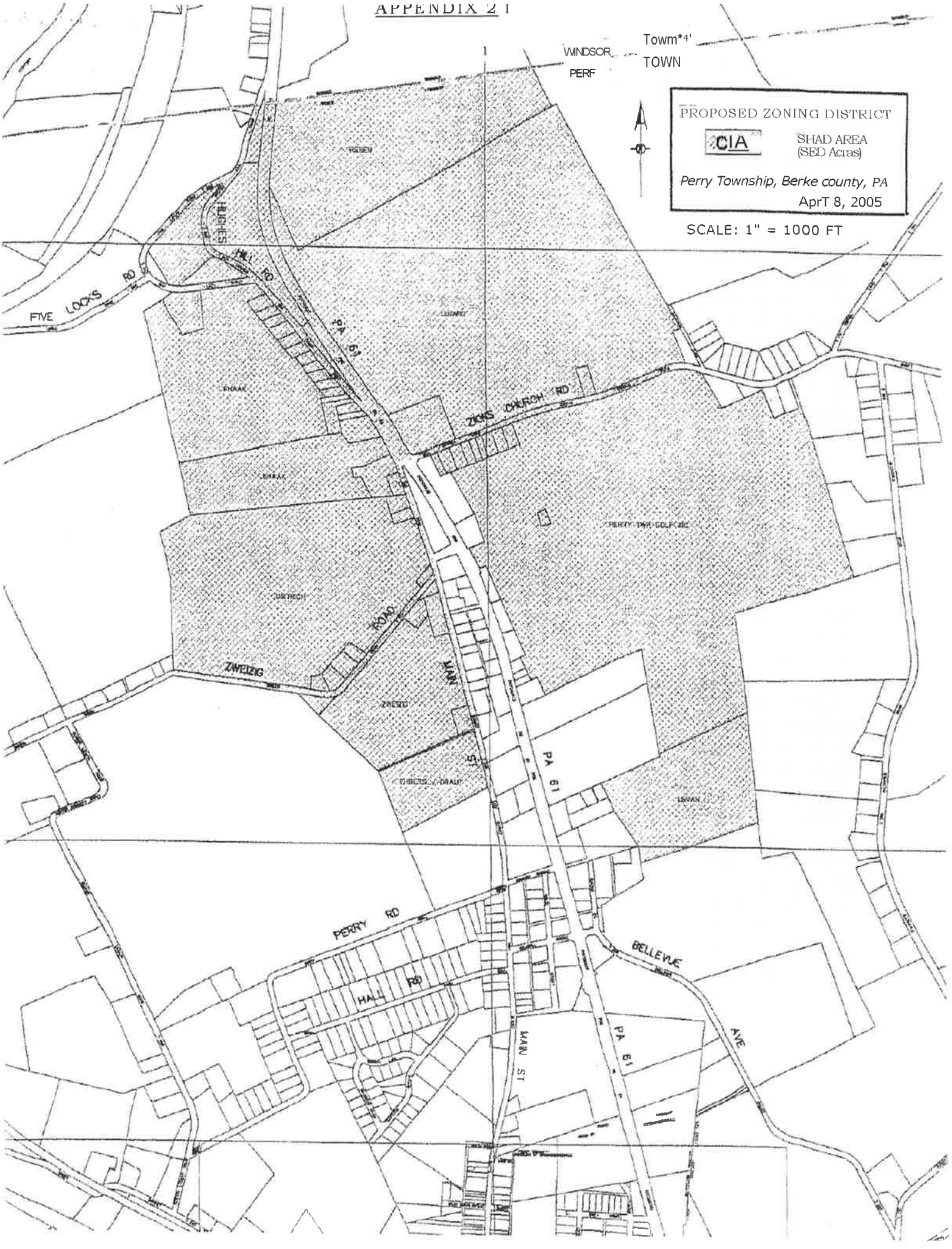
209.5 Screening.

a. All property within the CLI — Commercial Light Industrial District which abuts a residential use, residential district or districts, including property across the street, shall be appropriately screened by fences, walls or year-round plantings and/or other suitable enclosures of a minimum height of four and one-half (4-1/2) feet and a maximum height of seven (7) feet, except for year-round plantings which shall have no maximum height limitation.

b. If trees, evergreen hedges or other types of year-round plants are used, a landscaped area shall be provided at least five (5) feet in width along the entire interior property lines that abut the residential district.

209.6 All means of ingress or egress to any public street or State highway shall be located at least two hundred (200) feet from any intersecting street or streets and shall be designed to conduct traffic in a safe manner. The minimum distance between any on-lot and/or adjacent lot ingress and egress points shall be at least two hundred (200) feet along Route 61 (Pottsville Pike) and Main Street. The developer shall be responsible for the purchase and erection of any necessary traffic control devices and the construction of additional turning and/or acceleration lanes as may be required by PennDOT or by the Township Supervisors. A traffic control devices and roadway construction shall meet PennDOT warrant standards and design criteria.

APPENDIX 2 I



Towm*4'
TOWN
WINDSOR
PERF
PROPOSED ZONING DISTRICT
CIA
SHAD AREA
(SED Acras)
Perry Township, Berke county, PA
AprT 8, 2005
SCALE: 1" = 1000 FT
FIVE LOCKS RD
HUGHES HILL RD
PA 61
ZIONS CHURCH RD
PERRY TWP GOLF INC
ZWEIZIG ROAD
MAIN ST
PA 61
PERRY RD
HALL RD
BELLEVUE AVE
MAIN ST
PA 61

APPENDIX 3

CLI Zoning District Mappin Numerical List
From Berks County Tax Map Database downloaded May 19, 2005

4493-01-28-8953
4493-01-29-3936
4493-01-29-4444
4493-01-29-6767
4493-01-36-5166
4493-01-36-5365
4493-01-36-6388
4493-01-36-7570
4493-01-36-8559
4493-01-37-3009
4493-01-38-2008
4493-01-38-5959
4493-01-38-6579
4493-01-38-6865
4493-01-38-6912
4493-01-38-7728
4493-01-38-7732
4493-01-38-8588
4493-01-38-8624
4493-01-38-9407
4493-01-39-0591
4493-01-39-1464
4493-01-39-2288
4493-01-39-2317
4493-01-39-3250
4493-01-39-4096
4493-01-39-4133
4493-01-39-6130
4493-01-45-5554
4493-01-46-2390
4493-01-46-3982
4493-01-46-5951
4493-01-46-7064
4493-01-47-2765
4493-01-47-2835
4493-01-47-4192
4493-01-47-4255
4493-01-48-0077
4493-0148-4459
4493-0148-5178
4493-0148-6252
4493-0148-7245
4493-01-48-8229
4493-01-48-8391
4493-01-48-9353
4493-02-57-4784
4493-02-58-0335
4493-02-58-1318
4493-02-58-2402
4493-02-58-8859
4493-02-59-1577
4493-02-65-7412
4493-02-67-5678
4494-03-20-8171
4494-03-41-2213

ORDINANCE NO. 1-09

AN ORDINANCE OF THE TOWNSHIP OF PERRY, BERKS COUNTY, PENNSYLVANIA, AMENDING THE EXISTING PERRY TOWNSHIP ZONING ORDINANCE NO. 4-98, AS AMENDED BY AMENDMENT NO. 2-01, DATED JUNE 19, 2001, AMENDMENT NO. 1-03, DATED NOVEMBER 11, 2003, AMENDMENT NO. 1-05, DATED MARCH 8, 2005, AND AMENDMENT NO. 3-05, DATED SEPTEMBER 6, 2005, TO AMEND PROVISIONS OF SECTION 209, INCLUDING SECTION 209.4 FOR SETBACK REQUIREMENTS; SECTION 209.5 FOR SCREENING REQUIREMENTS; ADDING A NEW SECTION 209.7 SETTING FORTH NOISE LIMITATIONS; ADDING A NEW SECTION 209.8 REGULATING MISCELLANEOUS DISTURBANCES; ADDING A NEW SECTION 209.9 REGULATING LIGHTING; AND ALSO ADDING NEW PROVISIONS ALLOWING AND REGULATING WIND TURBINES AND WIND ENERGY FACILITIES IN THE RURAL-AGRICULTURE, COMMERCIAL LIGHT INDUSTRIAL AND INDUSTRIAL DISTRICTS BY CONDITIONAL USE

WHEREAS, the Perry Township Board of Supervisors ("Supervisors") adopted Ordinance No. 3-05 on September 6, 2005, creating a new Commercial Light Industrial District under a new Section 209 of the Zoning Ordinance of Perry Township hereinafter referred to as the CLI District; and

WHEREAS, the Supervisors believe it is necessary to enact certain changes to the CLI Zoning District for health, safety and welfare concerns of existing residential uses and zoning district boundaries regarding building setbacks, improvement setbacks, noise limits, miscellaneous disturbances, lighting and buffering; and

WHEREAS, the Supervisors recognize the increasing change in public energy consumption and the need to provide for residential and commercial wind energy uses such as windmills and wind energy facilities and that such uses are best regulated through conditional use applications.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby ordained and enacted by the Township of Perry, Berks County, Commonwealth of

Pennsylvania, as follows:

Section 1. Section 209.4 is hereby amended to read as follows:

"209.4 Area, Yard and Height Requirements Maximum Permitted.

Maximum Permitted:

Building Height	- 50 feet
Maximum Building Coverage	- 50%
Paved Area	- 50%
Total of Building and Paved Area Not to Exceed	- 80%

Minimum Requirements:

Lot Size — with public sewer	- 1 acre
Lot Size — without public sewer	- 2 acres
Lot Width:	
At Street Line	-150 feet
At Building Setback Line	-150 feet
Building Setbacks shall be a minimum of:	
Front Yard	- 35 feet
Side Yard	- 20 feet
Rear Yard	- 25 feet
Area Not Paved Nor Covered by Buildings	-20%

Where a front yard, side yard or a rear yard is adjacent to an existing residential use or residential district, the Building Setbacks shall be modified and shall be equal to the height of the building, plus 10% of the building width adjacent to the residential use or residential district, but not to exceed a maximum requirement of 100 feet. The lateral extent of the application of this provision along a boundary line shall be at the discretion of the Board of Supervisors. This provision shall only be applied to the perimeter of the proposed development and is not to be applied on separate created lots or streets within a development within the CLI District.

The Board of Supervisors may, upon application by the Developer, reduce the Building Setback requirements upon a showing of increased landscaping mounds, screening and buffering that is determined to be acceptable and minimize the visual and noise related impacts upon a residential use or residential district.

For improvement Setbacks for driveways, parking areas. equipment pads. sound barriers and other structures not considered as landscaping structures such as retaining wails, there shall be a fifteen (15) foot minimum Improvement Setback. This minimum shall be doubled when the yard is adjacent to an existing residential use or residential district. Entrance driveways to developments larger than one (1) acre shall be separated a minimum of fifty (50) feet from the

adjacent property line unless it is adjacent to an existing residential use or district, at which time the separation shall be a minimum of one hundred (100) feet. The Board of Supervisors may, at their discretion, reduce the amount of the driveway separation upon a showing by the developer that there are intersection design restrictions on existing roads or such driveway separation is not consistent with a Master Traffic Plan."

Section 2. Section 209.5 is hereby amended to read as follows:

"709.5 Screening.

a. All property within the CU — Commercial Light industrial District which abuts an existing residential use, residential district or districts shall be appropriately screened by fences, walls or year-round plantings and/or other suitable enclosures of a minimum height of four and one-half (4-1/2) feet and a maximum height of seven (7) feet, except for year-round plantings which shall have no maximum height limitation. A general Landscape Plan shall be required by each developer for a proposed new development or change of use. The Landscape Plan shall provide for a solid landscape buffer of any combination of earth mounds, deciduous and evergreen trees and shrubs, architectural walls and other similar proposals from a developer which will assist in retaining or soundproofing the perimeter of the development within the CLI District.

b. If trees, evergreen hedges or other types of year-round plants are used. a landscaped area shall be provided at least five (5) feet in width along the entire interior property lines that abuts the residential district or existing residential use."

Section 3. A new Section 209.7, entitled Noise Limits, is adopted. It shall read as follows:

"209,7 Noise Limits in CLI District

The noise limits to be adopted herein are to be measured at the property line where the CLI District proposed use is adjacent to an existing residential use or a residential district.

From 7:00 a.m. to 10:00 p.m.	Less than 70 dba 90% of the time, 80 dba maximum at any one time
From 10:00 p.m. to 7:00 a.m.	Less than 60 dba 90% of the time, 70% dba maximum

Section 4. A new Section 209.8, entitled, Miscellaneous Disturbances,

is adopted. It shall read as follows:

"209.8 Miscellaneous Disturbances

There shall be no discernable vibrations, magnetic radiation or heat emitted by the proposed use at the property line. The proposed use shall not allow dust to be created and travel across property lines."

Section 5. A new Section 209.9, entitled, Lighting, is adopted. It shall read as follows:

"209.9 Lighting.

A proposed development within the CLI District shall produce less than one (1) foot candle of light emission at the property line, and there shall be no discernible flashing or pulsing lights emitting from the proposed development of any magnitude that will extend beyond the property line.

Section 6. The following definitions are to be added to ARTICLE VI. Section 601.4:

Wind Energy Facility: An electric generation facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities. The term does not include a stand alone wind turbine constructed primarily for residential, farm, or commercial use on the same lot as the wind turbine.

Wind Turbine: A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator and includes the nacelle, rotor, tower and pad turbine, if any.

Section 7. Section 201.4 is amended to include a new paragraph "(d) Wind Energy Facilities and Wind Turbines as Uses permitted by Conditional Use pursuant to the requirements of Section 410.4 to be adopted herein."

Section 8. A. Section 207.3 is amended in its entirety to read as follows:

`207.3 Uses Permitted by Special Exception or Conditional Use.

a. Junk yards (by Special Exception);

b. Quarries (by Special Exception);

c. Mobile telephone, microwave, television and radio transmission structures, per regulations set forth in Section 503.10 (by Special Exception);

d. Wind Energy Facilities and Wind Turbines by Conditional Use pursuant to the requirements of Section 410.4 adopted contemporaneously herein.

e. Accessory uses not located on the same lot as the principal use.

B. Section 209.3 is amended in its entirety to read as follows:

'209.3 The following used and their accessory uses may be permitted when authorized as a Special Exception by the Zoning Hearing Board, all subject to the provisions of Sections 502 and 503 or as a Conditional Use as set forth herein:

a. Theaters.

b. Bowling alleys.

c. Hotels, motels.

d. Funeral homes.

e. Telecommunication towers.

f. Indoor storage, assembly, testing and manufacturing with no retail sales.

g. Wind Energy Facilities and Wind Turbines by Conditional Use pursuant to the requirements of Section 410.4 adopted contemporaneously.

Section 9. A new section 410.4, entitled Wind Energy Facilities and Wind Turbines, is adopted. It shall read as follows:

"410.4 Wind Energy Facilities and Wind Turbines,

Wind Energy Facilities and Wind Turbines are permitted as set forth in this Ordinance in the Rural-Agriculture, Commercial Light Industrial and Industrial Districts. All such Facilities and Turbines shall comply with any applicable Federal or State permitting, construction and operational laws and regulations. To the extent determined to be applicable by the Supervisors, Wind Energy Facilities and Wind Turbines shall comply with the following additional regulations and standards:

a. Land development plan is required;

b. An affidavit or similar document is required stating relationship and permission of the developer and owner of the facility to the property owner who is responsible for permits, maintenance and decommission and removal of the facility;

c. Principle use setbacks shall apply to all towers and substations. Towers shall be setback a minimum of 1.1 times the tower height, including rotor;

d. Written certification from a professional engineer that (a) all components of the tower structure, nacelle and rotor meet applicable construction standards such as the Pennsylvania Uniform Construction Code, American National Standards Institute, Underwriters Laboratories and others; and (b) will not fall on neighboring properties if the structure would fail;

e. All wind turbines shall be equipped with redundant braking systems. including both aerodynamic overspeed controls and mechanical brakes operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection;

f. All electrical components shall conform to relevant and applicable local, state and national codes and standards;

g. All materials used shall have a dull finish so as to not produce any glare or adverse reflective light;

h. The facilities shall not be artificially lighted except as may be required by the FAA:

i. The facility shall not display advertising except for a reasonable small identification of the manufacturer and facility owner/operator;

j. On-site transmission and power lines shall be underground to the maximum extent possible;

k. Suitable warnings and security measures shall be employed to prevent accidents and access or entry by unauthorized persons;

l. All damage to public roads resulting from construction and maintenance of the facility shall be the responsibility of the facility owner to repair to the satisfaction of the Township. Bonding of the road may be required in compliance with state regulations;

m. Audible sound produced by the wind energy facility shall not exceed 55 dba measured at the facility property line or public street right-of-way line within the property;

n. The layout and location of facilities shall minimize shadow flicker on occupied buildings on off-site properties;

o. Reasonable effort shall be investigated and made to avoid disruption or loss of radio, telephone, television or similar signals. Mitigation for affected parties may be required;

p. Environmental studies may be required and shall include the effect of the facility on the migratory bird patterns or wildlife particular to Perry Township;

q. Liability insurance is required with certificates available to the Township;

r. The facility owner and operator shall, at their expense, completely decommission and remove all wind energy facilities or individual turbines within 12 months after the end of their useful life or if no electricity has been generated for a continuous period of 12 months. The facility owner and/or operator shall post and maintain decommissioning funds in an amount not less than 25% of the total decommissioning costs as determined by a professional engineer in a form and from a bonding or lending institution acceptable to the Township;

s. Other conditions as may be applicable to the particular site and circumstances of the facility as determined by the Township.

Section 10. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

Section 11. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect nor impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of the Township of Perry that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part not been included herein.

Section 12. This Ordinance shall become effective upon its adoption and enactment as required by law.

DULY ENACTED AND ORDAINED by the Board of Supervisors of Perry Township, Berks County, Pennsylvania on this 10th day of November, 2009, in lawful session duly assembled.

BOARD OF SUPERVISORS OF PERRY TOWNSHIP

Chairman

Member

Member

ATTEST:

Secretary

ORDINANCE NO. 1-10

AN ORDINANCE OF THE TOWNSHIP OF PERRY, BERKS COUNTY, PENNSYLVANIA, AMENDING THE EXISTING PERRY TOWNSHIP ZONING MAP WHICH WILL AFFECT THE FOLLOWING TAX PARCELS: 4493-01-19-5697, 4493-01-19-3270, 4493-01-17-5582, 4494-04-61-7026, 4493-02-56-4007, 4493-02-55-9068, 4493-04-64-1900, 4493-04-64-1713, 4493-04-64-9448, 4493-02-75-7923, 4493-04-74-9678, 4493-04-63-9022, 4493-04-62-9868, 4493-04-82-6314, 4493-19-70-1449, 4493-04-91-3307, 4493-04-81-8104, 5403-03-01-0309, 4493-04-80-9640, 5403-03-14-8410, 5403-03-02-4463, 5403-03-12-0555, 5403-03-12-2644, 5403-03-12-4777, 5403-03-12-7856, 5403-03-22-0904, 5403-03-11-2569, 5403-03-13-7495, 5403-03-13-9468, 5403-03-23-3561, 5403-03-23-7620, 5403-03-23-8623, 5403-03-23-9625, 5403-03-23-0304, 4492-04-94-7710, 4492-04-82-1503, 4492-04-60-5769, 4492-04-60-7801, 4492-04-60-8805, 4492-04-60-8867, 4492-04-60-9918, 4492-04-70-0957, 4492-04-71-0017, 4492-04-71-1044, 4492-04-71-2153, 4492-02-99-1914, 4492-02-99-5841, 4492-02-99-5387, 4492-02-75-6764, 4492-02-89-9101, 4492-02-85-8312, 4492-02-55-2906, 4492-02-55-8001, 4492-02-76-6102, 4483-00-96-9250, 4493-01-05-8376, 4493-03-04-7075, 4493-01-05-3213, 4493-00-94-9137, 4491-02-69-5853, 4492-04-70-3435, 4494-04-81-0962, 4493-02-89-6297, 4493-02-88-7639, 4493-02-88-5466 and 4493-02-88-5294

WHEREAS, the Perry Township Board of Supervisors ("Supervisors") previously adopted a Zoning Map on which certain zoning boundary lines were set by specific distances from roads; and

WHEREAS the Supervisors believe it is necessary to enact an amendment to the Perry Township Zoning Map which will align zoning district boundary lines with the tax assessment parcel lines thereby eliminating parcels being in more than one zoning district, except in certain circumstances.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby ordained and enacted by the Township of Perry, Berks County, Commonwealth of

Pennsylvania, as follows:

Section I. The Perry Township Zoning Map is to be amended in accordance with the provisions set forth on Exhibit **"A"** attached hereto and incorporated herein by reference.

Section 2. All Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

Section 3. This Ordinance shall take effect five (5) days subsequent to its passage.

DULY ENACTED AND ORDAINED by the Board of Supervisors of Perry Township, Berks County, Pennsylvania, this 12th day of January 2010, in lawful session duly assembled.

BOARD OF SUPERVISORS OF
PERRY TOWNSHIP

Chairman

Member

Member

ATTEST:

Secretary

Perry Township *4123/09*

Properties Affected by Proposed Changes Zoning Map

Study Sheet

4493-01-19-5697
Edward B. Miller, Sr.
% John D. Miller ill
550 Five Locks Road
Shoemakersville, PA 19555

To be entirely in the R-A District

4493-01-19-3270
Joyce M. Zweizig
457 Zweizig Road
Shoemakersville, PA 19555

To be entirely in the R-A District

4493-01-17-5582
Deborah A. & David A. Shaak
421 Mill Road
Hamburg, PA 19526

To be entirely in the R-A District

Study Sheet 2

4494-04-61-7026
Allen R. Schaeffer & Tracy L. Kramer
320 Hoffman Lane
Shoemakersville, PA 19555

To be entirely in the R-A District

Study Sheet 3

4493-02-56-4007
Athian L. Wilson
1365 Pottsville Pike
Shoemakersville, PA 19555

To be entirely in the C-1 District

Study Sheet 4

4493-02-55-9068
Terry L. Sr. & Susan A. Shaner
PO Box 64
Summit Station, PA 17979

To be entirely in the C-1 District (9068)

4493-04-64-1900 To be entirely in the C-1 District
Shoemakersville Borough
242 Main Street
Shoemakersville, PA 19555

4493-04-64-1713 To be entirely in the C-1 District
Athian L. Wilson
1365 Pottsville Pike
Shoemakersville, PA 19555

4493-04-64-9448 To be entirely in the R-3 District
Paul D. & Mae I. Dietrich
53 East Bellevue Avenue
Shoemakersville, PA 19555

Study Sheet 5

4493-02-75-7923 To be entirely in the R-1 District
Robert T. Noecker & Elizabeth E. Shoemaker
326 Main Street
Shoemakersville, PA 19555

4493-04-74-9678 To be entirely in the R-1 District
Barry E. Isett
360 Renninger Road
Perkiomenville, PA 18074

Study Sheet 6

4493-04-63-9022 To be entirely in the C-1 District
George R. Jr. & Tammy T. Rubright
Teddy T. & Jeffrey J. Rubright
PO Box 220
Shoemakersville, PA 19555

4493-04-62-9868 To be entirely in the L-I District
Eugene W. Bell
1047 Shoemaker Avenue
Shoemakersville, PA 19555

4493-04-82-6314 To be entirely in the L-I District
Eugene Bell
PO Box 238
Shoemakersville, PA 19555

4493-19-70-1449
Perry L. & Jennifer J. Olivieri
505 Shoemakersville Road
Shoemakersville, PA 19555

To be entirely in the C-1 District

Study Sheet 7

4493-04-91-3307
George 0. & Elizabeth A. Bowman
90 Skyline Drive
Shoemakersville, PA 19555

To be entirely in the R-I District

4493-04-81-8104
Kenneth V. & Frank J. Carsto
82 Skyline Drive
Shoernakersvilte, PA 19555

To be entirely in the R-1 District

5403-03-01-0309
John M. & Linda L. Jacoby
34 Seip Lane
Shoemakersville, PA 19555

To be entirely in the R-A District

4493-04-80-9640
Barbara S. Putt Rev. Trust
205 Ridge Road
Shoemakersville, PA 19555

To be entirely in the R-A District

Study Sheet 8

5403-03-14-8410
Allan S. & Beth L. Rohrbach
448 Dreibeibis Mill Road
Shoemakersville, PA 19555

To be entirely in the R-A District

5403-03-12-2644
Daniel A. & Patricia A. Adam
520 Moseiem Springs Road
Shoemakersville, PA 19555

To be entirely in the R-1 District

5403-03-02-4463 To be entirely in the R-1 District
Darren J. Daub
384 Moselem Springs Road
Shoemakersville, PA 19556

5403-03-12-0555 To be entirely in the R-1 District
Daniel A. Adam
250 Skyline Drive
Shoemakersville, PA 19555

5403-03-12-4777 To be entirely in the R-I District
Kim D. & Susan M. Unger & Robert H. Adam
°A M. Ann *Adam*
524 Moselem Springs Road
Shoemakersville, *PA 19555*

5403-03-12-7856 To be entirely in the R-1 District
Jacob F. & Jolene M. Balatgek
550 Moselem Springs Road
Shoemakersville, PA 19555

5403-03-22-0904 To be entirely in the R-I District
Emery E. & Martha R. Delbo
574 Moselern Springs Road
Shoemakersville, PA 19555

5403-03-11-2569 {Doris L. Hepner Irrevocable Trust 109 Forest Lane Shoemakersville, PA 19555 To be entirely in the R-A District

5403-03-13-7495 To be entirely in the R-1 District
Daniel L. & Donna Hill
13 Northview Avenue
Shoemakersville, PA 19555

5403-03-13-9468 To be entirely in the R-1 District
Donald G. & Sharon A. Tobias
5 Northview Avenue
Shoemakersville, PA 19555

5403-03-23-3561 To be entirely in the R-1 District
David *M.* & Stephanie Y. Adam
617 Mos&em Springs Road
Shoemakersville, PA 19555

5403-03-23-7620
Glen A. Thren
667 Moselem Springs Road
Shoemakersville, PA 19555

To be entirely in the R-1 District

5403-03-23-8623
Dennis L. Adam
679 Moselem Springs Road
Shoemakersvifle, PA 19555

To be entirely in the R-1 District

5403-03-23-9625
Sadie A. Adam Estate
% Dennis Lee Adam
679 Moselem Springs Road
Shoemakersville, PA 19555

To be entirely in the R-1 District

5403-03-23-0304
Wesley R. & LoMa B. Pace
613 Prison Road
Leesport, PA 19533

To be entirely in the R-1 District

Study Sheet 9

4492-04-94-7710
George R. & Barbara A. Hess
450 Shoemakersville Road
Shoemakersvifle, PA 19555

To be entirely in the R-A District

4492-04-82-1503
Irene W. Blankenbiller
244 Shoemakersville Road
Mohrsville, PA 19541

To be entirely in the R-A District

4492-04-60-5769
Birch Hill Cemetary Co. Inc.
Mohrsville, PA 19541

To be entirely in the R-A District

4492-04-60-7801
Christine A. Witt
177 Birch Hill Road
Shoemakersvifle, PA 19555

To be entirely in the R-A District

4492-04-60-8805
June P. Hamm
203 Birch Hill Road
Shoemakersvifle, PA 19555

To be entirely in the R-A District

4492-04-60-8867 Paul Jr. & June P. Hamm 203 Birch Hill Road Shoemakersville, PA 19555	To be entirely in the R-A District
4492-04-60-9918 Paul S. & Grace M. Schell 211 Birch Hill Road Shoemakersvilie, PA 19555	To be entirely in the R-A District
4492-04-70-0957 Joyce R. Wagner 213 Birch Hill Road Shoemakersville, PA 19555	To be entirely in the R-A District
4492-04-71-0017 Joyce R. Wagner 213 Birch Hill Road Shoemakersville, PA 19555	This parcel was consolidated with the foregoing parcel. Both are known as PIN 4492-04-70-0957.
4492-04-71-1044 Douglas M. & Joyce Wagner 215-A Birch Hill Road Shoemakersville, PA 19555	To be entirely in the R-A District
4492-04-71-2153 William C. & Dolores M. Schade 215 Birch Hill Road Shoemakersville, PA 19555	To be entirely in the R-A District

Study Sheet 10

4492-02-99-1914 David W. & Karen L. Hoagland 222 Ridge Road Shoemakersvilie, PA 19555	To be entirely in the R-A District.
4492-02-99-5841 Donald M. & Margie F. Dissinger 290 Ridge Road Shoemakersville, PA 19555	To be entirely in the R-A District
4492-02-99-5387 Glen Gery Corporation 423 S. Pottsville Pike Shoemakersville, PA 19555	To be entirely in the I-I District

4492-02-75-6764
Glen Gery Brick Company
423 S. Pottsville Pike
Shoemakersville, PA 19555

Mostly in I-I District, portion to be in R-A District

4492-02-89-9101
Charles K. Gallagher
198 Ridge Road
Shoemakersville, PA 19555

To be entirely in the 1-1 District

4492-02-85-8312
Wanda J. Bowman
350 Shoemakersville Road
Shoemakersville, PA 19555

To be entirely in the R-A District

Study Sheet 11

4492-02-55-2906
Billy Lee Blankenbiller & Jennifer C. Tyburski
96 Mohrsville Road
Shoemakersville, PA 19555

To be entirely in the R-2 District

4492-02-55-8001
Brett Gift
706 Old Route 22
Lenhartsviile, PA 19534

To be entirely in the R-2 District

4492-02-76-6102
Brush Wellman inc.
6070 Parkland Blvd
Mayfield Heights, OH 44124

To be entirely in the I-1 District

Study Sheet 12

4483-00-96-9250
Joyce M. Zweizig
457 Zweizig Road
Shoemakersville, PA 19555

To be entirely in the R-A District

4493-01-05-8376
4493-03-04-7075
Leroy C. Zweizig Estate
% Joyce M. Zweizig
457 Zweizig Road
Shoemakersville, PA 19555

Both parcels to be entirely in the R-2 District

4493-01-05-3213
Michael E. Cleveland & Karen Kay
508 Zweizig Road
Shoemakersville, PA 19555

To be entirely in the R-2 District.

4483-00-94-3197
Robert T. & Vernie M. Noecker
1043 Water Street
Shoemakersville, PA 19555

To be entirely in the R-2 District

Study Sheet 13

Has no zoning line change

Study Sheet 14

4491-02-69-5853
4492-04-70-3435
OZ Gedney Co., LLC
9377 W. Higgins Road
Rosemont, IL 60018

Both parcels to be entirely in the I-1 District

Study Sheet 15

4494-04-81-0962
Ernest C. & Shirley M. Hoffman
180 Merkel Lane
Shoemakersville, PA 19555

To be entirely in the R-A District

4493-02-89-6297
Donald I. & Faye E. Smith
463 Zions Church Road
Shoemakersville, PA 19555

To be entirely in the R-A District

4493-02-88-7639
Russell J. & Kimberley J.
Olszewski 410 Zions Church Road
Shoemakersville, PA 19555

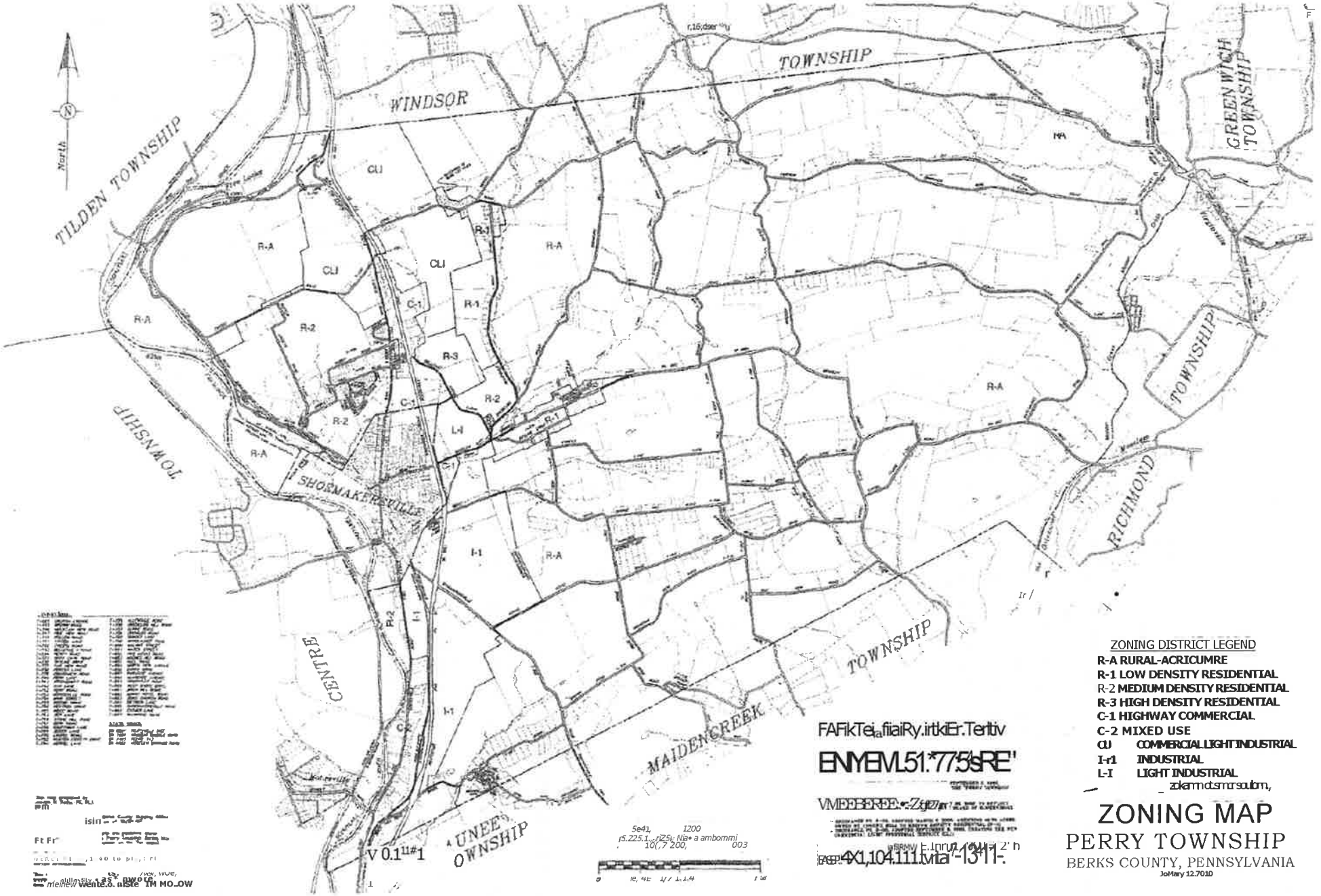
To be entirely in the R-1 District

4493-02-88-5466
Rodney R. Angstadt
67 Allendale Road
Shoemakersville, PA 19555

To be entirely in the R-1 District

4493-02-88-5294
Frank Lorusso Jr, & Tammy L. Seitzinger
75 Allendale Road
Shoemakersville, PA 19555

To be entirely in the R-1 District



ZONING DISTRICT LEGEND

- **R-A RURAL-ACRICUMRE**
- **R-1 LOW DENSITY RESIDENTIAL**
- R-2 **MEDIUM DENSITY RESIDENTIAL**
- **R-3 HIGH DENSITY RESIDENTIAL**
- **C-1 HIGHWAY COMMERCIAL**
- **C-2 MIXED USE**
- **CU COMMERCIAL LIGHT INDUSTRIAL**
- **I-r1 INDUSTRIAL**
- **L-I LIGHT INDUSTRIAL**

ZONING MAP

PERRY TOWNSHIP

BERKS COUNTY, PENNSYLVANIA

JoMary 12.7010

ORDINANCE NO. 01-2014

AN ORDINANCE OF THE TOWNSHIP OF PERRY, BERKS COUNTY, PENNSYLVANIA, AMENDING ORDINANCE NO. 4-98 DATED SEPTEMBER 8, 1998 AS AMENDED, AMENDING SECTION 201 TO PROVIDE THAT SINGLE-FAMILY DETACHED DWELLINGS SHALL BE A USE PERMITTED BY RIGHT IN THE RURAL-AGRICULTURAL DISTRICT AND ELIMINATING SECTION 201.3(1), CREATING A NEW SECTION 201.4(e) FOR THE SUBDIVISION OR CREATION OF LOTS IN THE R-A DISTRICT PURSUANT TO SECTION 410.4, CREATING NEW SECTION 410.4, ELIMINATING SECTION 503.9 IN ITS ENTIRETY, AND TO AMEND ORDINANCE NO. 1-03 DATED NOVEMBER 11, 2003 TO ALLOW FOR BILLBOARDS IN THE COMMERCIAL LIGHT INDUSTRIAL DISTRICT

WHEREAS, the Perry Township Board of Supervisors ("Supervisors") adopted Ordinance No. 4-98 on September 8, 1998, providing for single family residential development within the Rural-Agricultural District as a special exception; and

WHEREAS, the Supervisors believe it is necessary to enact certain changes to Section 201, to eliminate Section 503.9 and create a new Section 410.4 in order to clarify, amend and restate certain provisions therein in order to address the continuing policy of promoting agricultural uses within the Rural-Agricultural District and provide for rules and regulations on the subdivision or the creation of lots within the Rural-Agricultural District that may impact on farm land preservation;

WHEREAS, the Supervisors also adopted Ordinance No. 1-03 on November 11, 2003 to allow for the use of billboards in certain districts in Perry Township;

WHEREAS, subsequent to that date, the Board of Supervisors created a new Commercial Light Industrial zoning district in Perry Township;

WHEREAS, the Supervisors have determined it is appropriate to allow for the use of billboards not only in the C-1, C-2, I-1, and L-1 zoning districts, but also in the newly created CL1 district;

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby ordained and enacted by the Township of Perry, Berks County, Commonwealth of Pennsylvania, as follows:

Section 1. Section 201, R-A •-- Rural-Agriculture, is amended to read as follows:

SECTION 201 **R-A Rural-Agriculture (See** *Ordinance No. 1-03 adopted November 11, 2003, attached* **hereto — new** *permitted uses added)*

201.1 Permitted Uses

a. All forms of agriculture, horticulture, animal husbandry, except intensive agricultural activities pursuant to Section 311;

b. Nurseries and greenhouses, forestry;

c. Roadside stands for the sale of farm products grown on the premises, provided off-road parking space is provided for customers;

d. Cemeteries and necessary incidental structures;

e. No-impact home-based businesses in accordance with Ordinance No. 1-03;

f. Additional Farm Dwelling on the same farm parcel in accordance with Ordinance No. 1-03;

g. Single-family detached dwellings.

201.2 Permitted Accessory Uses — Located on the same lot with the permitted principal use.

a. Private garages or private parking areas;

b. Signs pursuant to Section 304;

c. Home occupations pursuant to Section 302;

d. Customary accessory uses and buildings provided such are clearly incidental to the principal use and do not include any activity commonly conducted as a business,

201.3 Uses Permitted by Special Exception *(See Ordinance No. 2-01 adopted June 19, 2001, attached hereto - subsection (c) is deleted)*

a. Churches or similar places of worship, parish houses, convents and other housing for religious personnel on a lot not to exceed 5 acres;

b. Public or private schools, but not including correctional institutions on a lot not to exceed 10 acres;

c. Left blank intentionally; (See *Ordinance No. 2-01)*

d. Hospitals, orphanages, housing for the aged, convalescent homes for the care of the sick, aged, handicapped, but excluding institutions for the insane, feeble-minded or chemically dependent patients on a lot not to exceed 10 acres;

e. Accessory use not located on the same lot with the permitted principal use;

f. Lodges or clubs for hunting, fishing, gunning or other similar recreational purposes;

g. Public and private outdoor recreation areas and facilities—parks (except amusement parks), playgrounds, picnic grounds, swimming clubs, camps, golf courses or country clubs (except driving ranges and miniature golf courses);

Public buildings or structures owned or operated by the Township or a Municipal Authority organized by the ownership;

Left blank intentionally;

Bed and Breakfast use, not to exceed three (3) bedrooms.

201.4 Subdivision or Creation of Lots and Uses Permitted by Conditional Use. *(See Ordinance No. 2-01 adopted June 19, 2001 - added subsection (d) — Intensive Agricultural Activity)*

a. Agricultural related business subject to Section 312 of this Ordinance, such as welding shop, butcher shop, farm machinery repair and service, veterinary facilities;

b. Landfills pursuant to applicable State and Federal regulations;

c. Any other uses as determined by the Board of Supervisors to be of the same general character as those uses permitted by Conditional Use;

d. Intensive Agricultural Activity pursuant to Ordinance No. 201.

e. Subdivision and Creation of Lots in the R-A District pursuant to Section 410.4.

201.5 Minimum Lot Size

Area	- 1 acre
Width	- 100 feet

201.6 Minimum Yard Dimensions

Front Yard	- 75 feet
Each Side Yard	- 25 feet
Rear Yard	- 25 feet

201.7 Maximum Building Coverage, Including Accessory Structures

Maximum Building Coverage	- 10%
Maximum Height (feet)	- 35
(stories)	- 2-1/2

Section 2. A new Section 410.4 is hereby created to read as follows:

410.4 Subdivision and Creation of Lots within the Rural-Agricultural District

In the R-A Zoning District, the subdivision of land or the creation of lots shall be completed by conditional use subject to the following requirements:

a. Subdivision and creation of lots within the R-A District shall be by conditional use only and pursuant to the terms of this Section. Tracts of land existing as of January 19, 1986, which was the effective date of the sliding scale provisions adopted shall be limited, subject to conditional use approval, to the following maximum number of lots:

Size of Tract of Land	Number of Additional Lots Permitted
0-19 acres	1
20-49 acres	2
50-99 acres	3
100-199 acres	4
200-349 acres	5
350-499 acres	6
Over 500 acres	One additional lot for every 200 acres

NOTE: Fractions or parts of acres shall not be considered in determination of the maximum number of additional lots provided for in this section. A property owner submitting a subdivision plan shall be required to specify on the Plan which parcel shall carry with it the right to the quota or unused quota of additional lots to be created from the original tract. The number of new lots permitted by this Section 410.4 a. shall not be affected by any change in land ownership.

b. All lots existing or approved prior to January 19, 1986 shall be permitted in addition to the above permitted number of lots.

c. All plans for the subdivision or land development as may be authorized pursuant to this Section shall also be deemed to be governed by the provisions, requirements and procedures of the Municipality's Subdivision and Land Development Ordinance and said Ordinance shall be followed for all plan approvals.

d. Where, in the opinion of the Board of Supervisors in a conditional use hearing, a single-family dwelling is to be located upon land that is presently farmed or can be farmed, the Board of Supervisors shall consider and render a decision in which the land owner is required to preserve the actual farming characteristics of the land or

the potential farming characteristics of the land consistent with accepted active farming and agricultural land management principals. Locations of single family residential homes shall be such that they shall be on the least agriculturally productive land feasible or such other area that would minimize interference with agricultural production.

e. The maximum lot area for a lot to be approved and used as a residential lot shall not exceed a maximum of two (2) acres. The minimum lot size for all new lots, as permitted under this Section, shall not be less than one (1) acre. The Board of Supervisors in the conditional use proceedings shall consider unusual topographic conditions, wetlands, streams, rock outcrops, steep slopes or any other natural features that lend themselves to the lot size and the lot shape as proposed by a land owner. For a residential lot approval, the house shall be located on the least productive soils and applicant must demonstrate that that the proposed location of the house is not in prime agricultural soils, that the proposed house location does not affect the continuation of agricultural use on the parcel, and is designed in such a way as to prevent the irreversible conversion of agricultural land to non-productive uses. The placement of homes shall be designed and arranged to minimize both the loss of tillable agricultural soils and the interference with farm operations.

In the conditional use proceeding seeking approval of a lot for residential purposes, the Board of Supervisors may consider that the location of the proposed house and any accessory structures shall be set to provide the least disruption to the current or potential farming practices considering the field layout, contour strips, soil conditions, slope, and field acreage for both crop farming and pasture grazing. The proposed lot and shape may be dependent upon finding suitable soils for on lot septic system, and may also be dependent upon certain requirements for meeting ground water conditions resulting from any hydrogeologic study for the lot. The Board of Supervisors may require proof of unsuitable soils for the location of a septic system if the applicant is proposing a lot size that consumes available farm land.

The Board of Supervisors shall grant a conditional use application subject to some or all of the following criteria based upon the location and site specific merits of the proposed application:

1. A site plan shall be required for each individual lot, prepared at the time of the conditional use application. If the application is seeking approval for a residential lot, the site

plan shall show the intended location and footprint of the house to be constructed. The house plan shall show general overall dimensions.

2. No signs other than signs giving the name of the occupants or the name of the home-related business may be erected if the purpose is to have a business under any provision of the Perry Township Zoning Ordinance. Any sign shall not exceed two (2) square feet.

3. Any part of an unforested lot not used for the residence, outbuildings, lawn, support utilities or driveway shall be used or available for agriculture.

4. Unimproved lots shall remain in active agriculture use or shall be mowed in accordance with the Perry Township Weed Control Ordinance.

5. No structure of temporary character, such as trailers, mobile homes, tents, campers or recreational vehicles may be erected on the lot and used as a place of residence.

Any storage of materials or supplies on a lot for residential purposes that may be used for a home occupation or home-based business shall be hidden by fencing or natural tree cover.

The design and construction of driveways on all lots shall be approved by the Township Engineer and shall include sufficient control measures and facilities to slow, minimize, divert, and safely convey surface runoff and to prohibit the discharge of sediment and/or gravel wash onto public roads or the public road drainage facilities and right of way. Certain portions or all of the proposed driveway may be required to be paved.

8. Selection of the site for any structure shall be in keeping with the goal of preservation of agricultural land and shall be assessed by the Board of Supervisors as part of the conditional use review.

9. All accessory structures shall be located behind the front plane of the principal residential structure.

10. As a condition of granting a conditional use. the Board of Supervisors may require that there may be no further

subdivision, no creation of additional lots, or may require the relinquishment of some or all of the remaining lots that an applicant may be entitled to by the sliding scale quota of this section.

fit. imposition of conditions and reasonable safeguards deemed to be appropriate to the specific plan being considered by the Board.

in the event that a lot is created by a landowner for purposes of annexing the newly created lot onto adjoining lands, the annexation parcel so created shall not be considered as land available to the parcel to which it is to be annexed for calculating the quota of available lots pursuant to 410.4.a. herein.

Prior to the conditional use hearing, the applicant shall submit a site plan to the Planning Commission to provide an opportunity to review the proposed subdivision or creation of lots to allow the Planning Commission to provide comments and recommendations to the Board of Supervisors. Said submission shall take place more than thirty (30) days prior to the conditional use hearing.

Section 3. Existing Section 503.9 is repealed in its entirety.

Section 4. Subsection 304.4.B. entitled "Billboards" shall be amended to read as follows:

Billboards are a permitted accessory use in the C-1, C-2, CLI, 1-1 and L-1 zoning districts only, and are specifically limited to locations along Route 61 (Pottsville Pike) corridor only.

Section 5. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

Section 6. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect nor impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared to be the intent of the

Board of Supervisors of the Township of Perry that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part not been included herein.

Section 7. This Ordinance shall become effective fifteen (15) days after its adoption and enactment as required by law.

DULY ENACTED AND ORDAINED by the Board of Supervisors of Perry Township, Berks County, Pennsylvania, on this 14th day of January, 2014, in lawful session duly assembled.

BOARD OF SUPERVISORS OF PERRY TOWNSHIP

Chairman

Member

Member

ATTEST:

Secretary

ORDINANCE NO. 4-98

AN ORDINANCE OF THE TOWNSHIP OF PERRY, BERKS COUNTY, PENNSYLVANIA, AMENDING THE PERRY TOWNSHIP ZONING ORDINANCE OF 1990, AS AMENDED, PROVIDING REVISIONS TO SECTION 207C-2, GENERAL COMMERCIAL ZONING DISTRICTS, AND SECTION 208 I-1, INDUSTRIAL ZONING DISTRICTS, SPECIFICALLY SUBSECTIONS 207.3 AND 208.3, USES PERMITTED BY SPECIAL EXCEPTION, BY ADDING AN ADDITIONAL SPECIAL EXCEPTION USE FOR MOBILE TELEPHONE, MICROWAVE, TELEVISION AND RADIO TRANSMISSION STRUCTURES; AND FURTHER AMENDING SECTION 501.4 TO PROVIDE DEFINITIONS FOR ANTENNA, COMMUNICATIONS EQUIPMENT BUILDING AND TRANSMISSION TOWER; AND CLARIFYING THE DEFINITION OF ESSENTIAL SERVICES; AND FURTHER PROVIDING A NEW SECTION 312 FOR REGULATIONS DEALING WITH SAID USES

BE IT ENACTED AND ORDAINED by the PERRY TOWNSHIP BOARD OF SUPERVISORS, Berks County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, that Ordinance No. 2-1990, entitled "The Perry Township Zoning Ordinance of 1990, as Amended," is further amended to read as follows:

Section 1. Section 501.4, "Definitions--Specific Terms," is revised to provide the following additional definitions or clarifying existing definitions:

"Antenna: A system of electrical conductors that emit or receive radio waves.

"Communications Equipment Building: A building and/or structure to be located on the site with the tower, which is necessary for the storage of equipment used in the operation, maintenance and repair of the tower and/or attached equipment.

Essential Services: The erection, construction. alteration, or maintenance by public utilities or municipalities or other governmental agencies of underground or overhead gas, electric, steam or water transmission or distribution systems, collection, communication, supply or disposal systems. This does not include mobile telephone, microwave, television or radio transmission structures.

Transmission Tower: The structure on which transmitting and/or receiving antennas are located. An AM radio tower is its own transmitting antenna." this definition specifically excludes amateur radio antennas, citizens' band radio antennas, television receiving antennas, and their supporting structures.

Section 2. Section 207.3, "C-2 General Commercial--Uses Permitted by Special Exception," is revised to provide a new subsection as follows:

"Section 207.3(j). Mobile telephone, microwave, television, and radio transmission structures, per regulations set forth in Section 312."

Section 3. Section 208.3, "I-1 Industrial--Uses Permitted by Special Exception," is revised to provide a new subsection, as follows:

"Section 208.3(d). Mobile telephone, microwave, television and radio transmission structures, per regulations set forth in Section 312."

Section 4. Article III, "Supplementary Regulations," is further amended to provide a new regulation in Section 312, which shall be titled, "Mobile Telephone, Microwave, Television, and Radio Transmission Structures," as follows:

"Section 312. Mobile Telephone, Microwave, Television and Radio Transmission Structures uses are permitted by special exception in the "C-2 General Commercial" Zoning District and/or the "I-1 Industrial" Zoning District, and shall conform to the following requirements:

312.1 Such uses shall be permitted by special exception in the General Commercial (C-2) Zoning District and/or the Industrial (I-1) Zoning District, provided that such towers and/or antenna structures shall not be located within 250 feet, or the total height of the tower and/or antenna structure, whichever is less, from any existing building or accessory building or street.

312.2 In addition to the minimum lot sizes required in the C-2 Zoning

District and the I-1 Zoning District, a safety easement setback shall be required providing a radius not to be less than the total height of the tower and/or antenna structure, and further providing that no future structure may be constructed within said safety easement setback.

312.3 The maximum height of the particular structure shall not exceed 200 feet in total height above ground.

312.4 Applicant shall be required to fence the perimeter of the site on which the transmission tower and communications equipment building is located. Fencing shall be in accordance with applicable Township Ordinances. In addition, the Applicant shall be required to landscape the screen tower base and equipment building and to have appropriate lighting on site to prevent nighttime trespassing.

312.5 Applicant, for a special exception under this provision, shall agree to submit to the Township Zoning Officer a quarterly newsletter setting forth the status of use of the transmission tower and/or communications equipment building. Applicant shall be required to dismantle and remove the tower within six (6) months of the date on which the use of the tower has ceased and/or been abandoned. Any period of time in excess of two (2) months in which the transmission tower is not used for the transmitting and/or receiving of radio waves will be deemed an abandonment of said use.

312.6 All other provisions of this Ordinance shall be complied with, including, but not limited to, applicable FCC and FAA regulations.

312.7 Applicant for a special exception under this provision shall demonstrate that the requested location is the optimum location for the location of a tower and that no alternate sites are available in the Township. The Applicant shall demonstrate that alternate sites were studied and that Applicant sought permission to locate on existing towers or structures within the Township.

312.8 The Zoning Hearing Board may place other restrictions and requirements on proposed tower/antenna uses as the Board deems necessary for the protection of the general health, safety and welfare of the public."

Section 5. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

Section 6. The provisions of this Ordinance are severable. If any sentence, clause or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect nor impair any of the remaining provisions, sentences, clauses or sections of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of the Township of Perry that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause or section not been included herein.

Section 7. This Ordinance shall become effective within five (5) days after its adoption and enactment as required by law.

DULY ENACTED AND ORDAINED by the Board of Supervisors of Perry Township, Berks County, Pennsylvania, this 14th day of April, 1998, in lawful session duly assembled.

BOARD OF SUPERVISORS OF PERRY TOWNSHIP

Richard D. Kline
Chairman

Thomas L. McKinney
Member

Mark Wm. Stitzel
Member

Attest:

Miriam M. Kline
Township Secretary

ORDINANCE NO. 12-01-15

AN ORDINANCE OF THE TOWNSHIP OF PERRY, BERKS COUNTY, PENNSYLVANIA, AMENDING THE EXISTING PERRY TOWNSHIP ZONING MAP WHICH WILL AFFECT TAX PARCEL 4493-02-76-8830

WHEREAS, the Perry Township Board of Supervisors ("Supervisors") previously adopted a Zoning Map on which certain zoning boundary lines were set; and

WHEREAS, the Supervisors believe it is appropriate and in the best interest of Perry Township to enact an amendment to the Perry Township Zoning Map which will adjust the boundary line between the CLI – Commercial Light Industrial ("CLI") and the R-1 Residential ("R-1") zoning districts, changing the zoning district of approximately 16.09 acres of Tax Parcel No. 4493-02-76-8830 from R-1 to CLI.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby ordained and enacted by the Township of Perry, Berks County, Commonwealth of Pennsylvania, as follows:

Section 1. The Perry Township Zoning Map is to be amended in accordance with the provisions set forth on **Exhibit "A"** attached hereto and incorporated herein by reference.

Section 2. All Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

Section 3. This Ordinance shall take effect five (5) days subsequent to its passage.

DULY ENACTED AND ORDAINED by the Board of Supervisors of Perry Township, Berks County, Pennsylvania, this 1st day of December, 2015, in lawful session duly assembled.

BOARD OF SUPERVISORS
OF PERRY TOWNSHIP

Chairman

Member

Member

ATTEST:

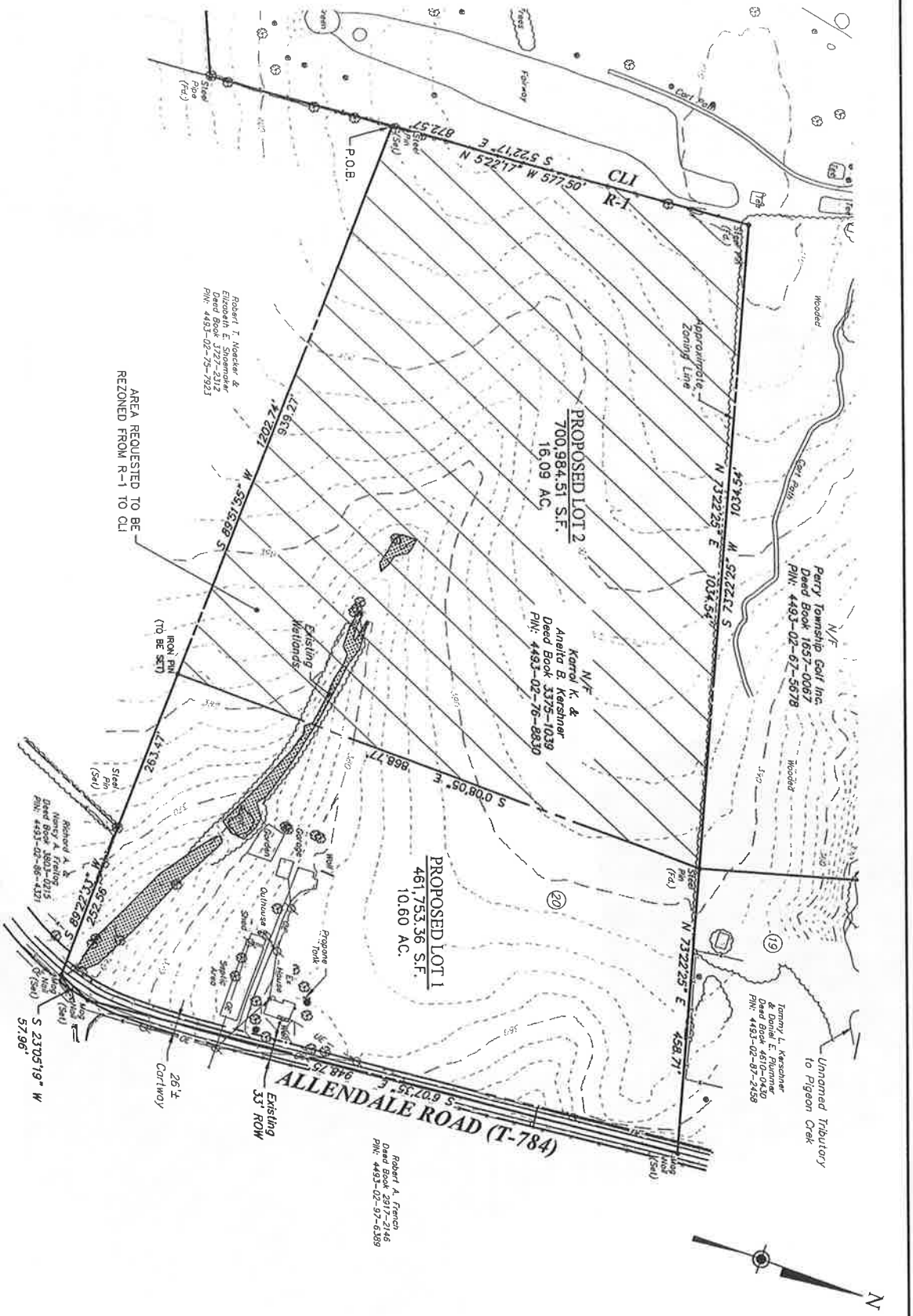
Secretary

Perry Township
Properties Affected by Proposed Changes to Zoning Map

4493-02-76-8830 Karroll K. Kershner and Aneita B. Kershner 234 Allendale Road Shoemakersville, PA 19555	To be partially in the CLI - Commercial Light Industrial District

Exhibit "A"

DRAWING REFERENCE: H:\11\11-0146-003\CADD\LD\Exhibits\11-0146-003 Kershner Exhibit A.dwg



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HARRISBURG, PA 17110
PHONE : 717.651.1010
FAX : 717.651.1022
www.snyderssecary.com

EXHIBIT "A"

FOR

PROPERTY REZONING

FOR

KARROL K. & ANEITA B. KERSHNER

PERRY TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

PROJ. MGR. -	JSS
DESIGN -	JDH
CADD -	CPK
CHECKED -	JSS

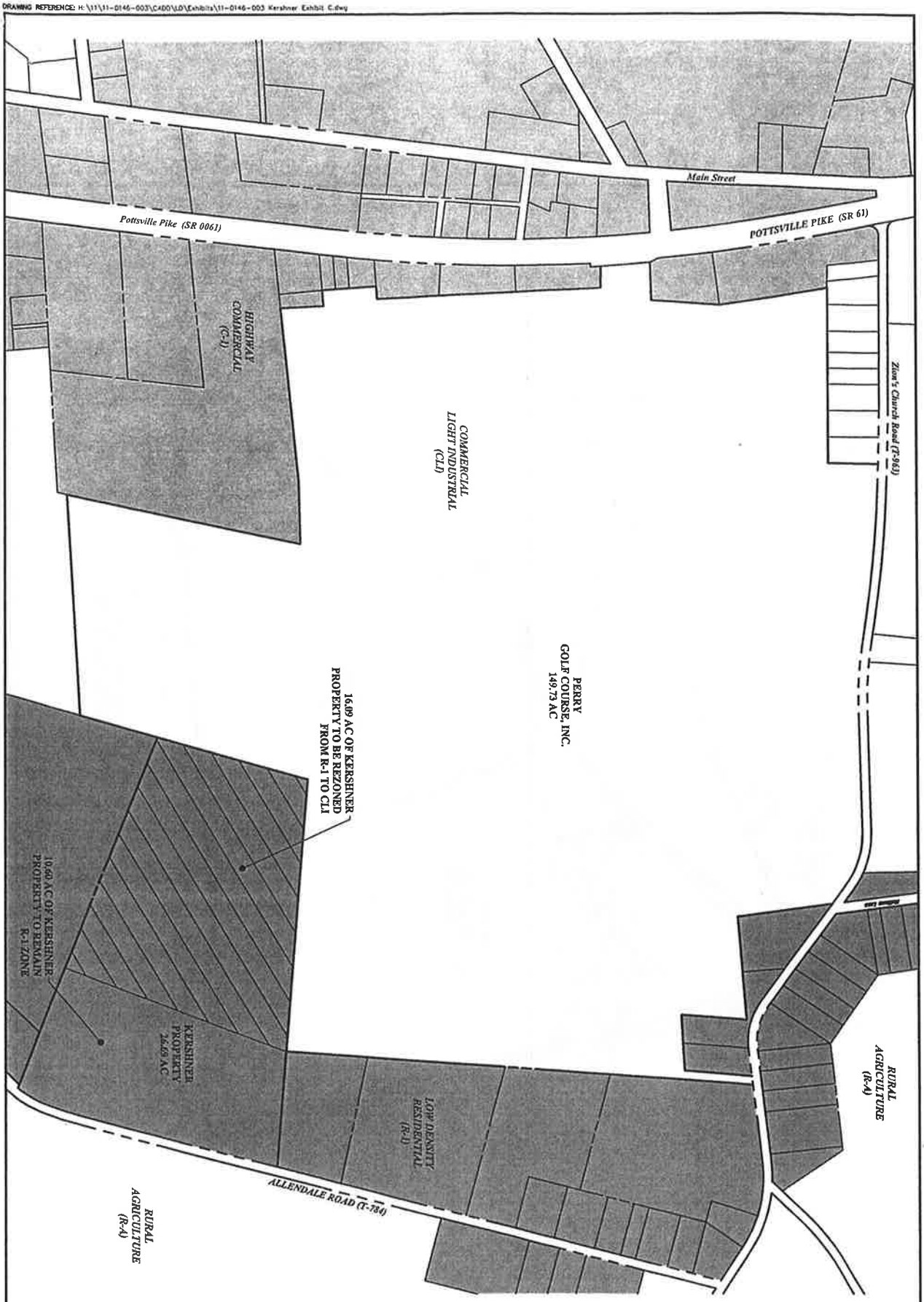
PROJECT NO. 11-0146-003

DATE: 06/25/15

SCALE: 1" = 150'

FIGURE 1 of 2

DRAWING REFERENCE: H:\11\11-0146-003\CADD\LD\Exhibits\11-0146-003 Kershner Exhibit C.dwg



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PHONE : 717.651.1010
FAX : 717.651.1022

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EXHIBIT "A"

FOR

PROPERTY REZONING

FOR

KARROL K. & ANEITA B. KERSHNER

PERRY TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

PROJ. MGR. -	JSS
DESIGN -	JDH
CADD -	CPK
CHECKED -	JSS

PROJECT NO. 11-0146-003

DATE: 06/25/15

SCALE: N.T.S.

FIGURE 2 of 2

ORDINANCE NO. 11-2019

AN ORDINANCE OF THE TOWNSHIP OF PERRY, BERKS COUNTY, PENNSYLVANIA, AMENDING PERRY TOWNSHIP ZONING ORDINANCE NO. 4-98, AS AMENDED, AMENDING THE ZONING MAP TO DESIGNATE CERTAIN LANDS IN THE TOWNSHIP, OWNED BY THE KRICK FAMILY TRUST AND TERRY L. SHANER, SR. AND SUSAN A. SHANER, AS C-1 HIGHWAY COMMERCIAL

BE IT ENACTED AND ORDAINED by the Perry Township Board of Supervisors, Berks County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, that Ordinance No. 4-98, entitled "The Perry Township Zoning Ordinance of 1998", as amended, and the Zoning Map thereto is amended to provide:

Section 1: The 1.33 acres and the 0.93 acres in size as shown on **Exhibit "A"**, attached hereto and by reference made a part hereof, owned by the Krick Family Trust being Berks County Parcel UPI 70-4493-04-53-2898, and owned by Terry L. Shaner, Sr. and Susan A. Shaner, being Berks County Parcel UPI 70-4493-04-54-4019, are to be designated as a C-1 Highway Commercial Zone on the Zoning Map of Perry Township.

Section 2: All Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

Section 3: If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal and invalid, such unconstitutionality, illegality or invalidity shall not affect nor impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of the Township of Perry that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part not been included herein.

Section 4: This Ordinance shall become effective upon its adoption and enactment as required by law.

DULY ENACTED AND ORDAINED by the Board of Supervisors of Perry Township, Berks County, Pennsylvania, this 12th day of November, 2019, in lawful session duly assembled.

ATTEST:

Rosanne R Adam
Secretary

BOARD OF SUPERVISORS OF PERRY TOWNSHIP, PENNSYLVANIA

By: _____
Chairman

Ownership Information

UPI / Property ID:	70449304544019
Location Address:	11 BELLEVUE AV
Owner's Name:	SHANER TERRY L SR/SUSAN A
Mailing Address:	PO BOX 64 SUMMIT STATION PA 17979
Municipality:	PERRY
School District:	HAMBURG AREA
Map PIN:	449304544019
Account #:	70004050

Recorded Documents

Deed / Instrument #:	2745 0451
Deed Date:	19960703
Deed Amount:	69900
Deed Reference 1:	
Deed Reference 2:	
Plan:	2 54
Lot:	19-22 /51-58

Property Details

Homestead Status:	NOT ENROLLED
Market Land Value:	38700
Assessed Land Value:	38700
Building Value:	62900
Total Assessed Value:	101600
Property Class:	COMMERCIAL
Land Use Code:	4281
Clean & Green Year:	
Net Acreage:	0.93
Description:	COMMERCIAL BUILDING DETACHED IMPROVEMENTS

This geospatial data and other related material was created or compiled by the County of Berks with the intent of using the data for county government related activities, and not necessarily with the intent of use of the data recipient in mind. Data is provided on an "AS IS" basis.
BERKS COUNTY DOES NOT ASSUME ANY LIABILITY FOR DAMAGES CAUSED BY THE USE OF THIS INFORMATION.

GIS Data General Agreement and Terms

2nd

Created September 04, 2019

County of Berks
Parcel Search
Report

Ownership Information

UPI / Property ID:	70449304544019
Location Address:	11 BELLEVUE AV
Owner's Name:	SHANER TERRY L SR/SUSAN A
Mailing Address:	PO BOX 64 SUMMIT STATION PA 17979
Municipality:	PERRY
School District:	HAMBURG AREA
Map PIN:	449304544019
Account #:	70004050

Recorded Documents

Deed / Instrument #:	2745 0451
Deed Date:	19960703
Deed Amount:	69900
Deed Reference 1:	
Deed Reference 2:	
Plan:	2 54
Lot:	19-22 /51-58

Property Details

Homestead Status:	NOT ENROLLED
Market Land Value:	38700
Assessed Land Value:	38700
Building Value:	62900
Total Assessed Value:	101600
Property Class:	COMMERCIAL
Land Use Code:	4281
Clean & Green Year:	
Net Acreage:	0.93
Description:	COMMERCIAL BUILDING DETACHED IMPROVEMENTS

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GIS Data General Agreement and Terms

3RD

Created September 04, 2019

County of Berks
Parcel Search
Report

Ownership Information

UPI / Property ID:	70449304544019
Location Address:	11 BELLEVUE AV
Owner's Name:	SHANER TERRY L SR/SUSAN A
Mailing Address:	PO BOX 64 SUMMIT STATION PA 17979
Municipality:	PERRY
School District:	HAMBURG AREA
Map PIN:	449304544019
Account #:	70004050

Recorded Documents

Deed / Instrument #:	2745 0451
Deed Date:	19960703
Deed Amount:	69900
Deed Reference 1:	
Deed Reference 2:	
Plan:	2 54
Lot:	19-22 /51-58

Property Details

Homestead Status:	NOT ENROLLED
Market Land Value:	38700
Assessed Land Value:	38700
Building Value:	62900
Total Assessed Value:	101600
Property Class:	COMMERCIAL
Land Use Code:	4281
Clean & Green Year:	
Net Acreage:	0.93
Description:	COMMERCIAL BUILDING DETACHED IMPROVEMENTS

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GIS Data General Agreement and Terms

Ownership Information

UPI / Property ID:	70449304532898
Location Address:	1121 MAIN ST
Owner's Name:	KRICK FAMILY TRUST
	LARRY B & SARAH L KRICK TR
Mailing Address:	1105 MAIN ST SHOEMAKERSVILLE PA 19555
Municipality:	PERRY
School District:	HAMBURG AREA
Map PIN:	449304532898
Account #:	70022429

Recorded Documents

Deed / Instrument #:	2016 025828
Deed Date:	20160726
Deed Amount:	0
Deed Reference 1:	
Deed Reference 2:	
Plan:	
Lot:	23-32 ,45-50

Property Details

Homestead Status:	NOT ENROLLED
Market Land Value:	41300
Assessed Land Value:	41300
Building Value:	49900
Total Assessed Value:	91200
Property Class:	RESIDENTIAL
Land Use Code:	101
Clean & Green Year:	
Net Acreage:	1.33
Description:	1 STORY FRAME

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Berks County

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County of Berks

Berks County

PERRY TOWNSHIP
BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 12-22

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF PERRY TOWNSHIP TO ADD A NEW SECTION 313 TO ALLOW FOR AND REGULATE SOLAR ENERGY SYSTEMS AND FACILITIES, AND TO PROVIDE FOR DEFINITIONS RELATED THERETO.

WHEREAS, the Board of Supervisors of Perry Township, Berks County Pennsylvania deems it necessary and appropriate to amend the Perry Township Zoning Ordinance (the "Zoning Ordinance") to allow for Solar Energy Systems and Facilities and to adopt regulations which promote the health, safety, and welfare of the residents of Perry Township regarding the location and operation of said facilities.

NOW, THEREFORE, be and it is hereby resolved by the Board of Supervisors of Perry Township, Berks County, Pennsylvania, as follows:

SECTION I: Solar Energy Systems and Facilities

A. A new Section 313 entitled "Solar Energy Systems and Facilities" shall be created and amended to the Zoning Ordinance of Perry Township.

B. The text of Section 313 is set forth herein as follows:

SECTION 313: Solar Energy Systems and Facilities

SECTION 313.1: Definitions: The following terms shall have the following definitions for purposes of this Section:

Accessory Solar Energy Systems (ASES): An alternative energy system consisting of one or more ground mounted, principal building mounted, or accessory building mounted solar collection devices and solar energy related equipment to generate electricity or otherwise convert solar energy into a different form of energy for the primary purpose of reducing on-site consumption of purchased power.

Principal Solar Energy Systems (PSES): An alternative energy system consisting of ground mounted or roof mounted solar collection devices and solar energy related equipment to generate electricity or otherwise convert solar energy into a different form of energy for the primary purpose of using the energy for commercial or other off-site use.

Solar Related Equipment: Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for or intended to be used for collection of solar energy.

SECTION 313.2: Accessory Solar Energy Systems (ASES)

A. The placement of all features, solar related equipment and system components constituting the ASES shall comply with the principal building setback, height, lot coverage, and other bulk requirements of the applicable underlying zoning district.

B. ASES roof mounted systems shall not extend beyond the roof edge in any direction nor above the ridge line of any sloped roof to which the system is attached.

C. ASES ground mounted systems shall not exceed ten (10) feet in height. Any roof mounted system shall not exceed the maximum building height in that zoning district.

D. The maximum permitted area, which is the combined surface area of all individual solar panels constituting the ASES, shall not exceed one thousand (1,000) square feet.

E. All utilities, lines, cables, wires, and other connections of, to or from the ASES and any related structure shall be at or below grade, or for roof mounted facilities shall comply with Section 313.2.C above.

F. The ASES shall be installed in compliance with all applicable building and construction code requirements.

G. ASES ground mounted systems shall be deemed impervious cover requiring stormwater management design pursuant to the Perry Township Stormwater Management Ordinance. The landowner must maintain the stormwater management feature(s) in good working order so long as the system is installed.

H. The actual surface area of all individual panels shall be considered in determining the amount of additional lot coverage the system creates. Actual surface area does not include projected horizontal area.

I. If required by the Code Official, the applicant shall supply one (1) years' worth of electrical consumption records for the subject property to serve as a benchmark for the anticipated amount of electrical energy proposed to be generated.

J. ASES shall be a use permitted by right in all zoning districts within the Township, provided they meet all regulations set forth herein.

K. The design, installation, and operation of ASES shall comply with all applicable federal, state, and local laws and regulations, including but not limited to building, construction, fire, and life safety requirements, and conform to the applicable industry standards, including those of the American National Standard (ANSI), Underwriters Laboratories (UL), the American Society for testing and Materials (ASTM), and other similar certifying organizations.

SECTION 313.3: Principal Solar Energy Systems (PSES):

A. PSES are permitted by Conditional Use within the L-I, I-1, and CLI Zoning Districts. All PSES are subject to the following conditions

B. The minimum lot size for any PSES shall be ten (10) acres.

C. PSES shall be enclosed by perimeter fencing at a height of eight (8) feet to restrict unauthorized access. Fencing shall be permitted within the front, rear, and side yards of a lot and shall be set back a minimum of fifteen (15) feet from all property lines.

D. All electrical lines shall, to the maximum extent practicable, be placed underground. All roof mounted PSES shall not exceed maximum building height in the applicable zoning district and all electric lines shall be concealed from view as is reasonably able to be accomplished.

E. PSES shall be screened from the property line view of:

1. Any residential structures on an adjacent lot existing at the time the PSES is established and located within three hundred (300) feet of the nearest solar array of the PSES; and

2. Any pedestrian or vehicular traffic on any street directly adjacent to the PSES; and

3. Screening may be adjusted by the Board of Supervisors as part of the Conditional Use findings.

F. PSES shall adhere to all yard dimension, impervious coverage, and building coverage requirements of the district in which they are located. Regardless of the zoning district where the solar farm is located, the maximum height for any PSES shall be fifteen (15) feet from the average grade of the land below. For the purpose of administering this impervious coverage regulation, the area of the individual solar panels shall be calculated and interpreted as impervious area.

G. In the event a building is necessary for the project it shall meet all the building setback, height, and coverage requirements of the zoning district in which it is located. With respect to lot or building coverage, the maximum allowable areas shall include both building and panel areas as described elsewhere within this

zoning section.

H. Vegetated cover must be maintained ninety percent (90%) or better uniform coverage and must not be subject to chemical fertilization and herbicides/pesticides. A meadow condition is preferable, particularly for slope between five and ten percent (5-10%). Mowed areas, where approvable, should be kept to a maximum height of four inches (4").

I. Individual panels within an array must be arranged in a fashion that allows the passage of runoff between each module.

J. PSES must be supported with structures/foundations occupying a maximum of five percent (5%) of the total tract area.

K. It shall be the responsibility of the property owner or facility owner or operator to secure any easements or restrictive covenants necessary to protect the sky space affecting the PSES. Such an agreement shall be negotiated between owners of affected properties but is not a requirement for any Township permits or approvals for the PSES.

L. The Board of Supervisors shall, at a minimum, consider the following criteria for each application as part of the conditional use application:

1. The applicant's plan for ongoing property maintenance, as well as maintenance of the solar generating and electrical aspects of the project.

2. Any inclusion of animals or livestock for grazing and their potential impacts to the property and surrounding area.

3. Property access including driveway location, required traffic controls, line of sight and potential impacts to the clear sight requirements.

4. Parking for routine operation, maintenance (landscaping and solar energy generating improvements) and heavy vehicle access as needed to support facility operations.

5. The potential for glare and heat generation and the impact they may cause to surrounding properties.

6. Environmental impacts associated with Solar Related Equipment, including any batteries and energy storage associated with the facility.

7. Whether the applicant has entered into an interconnection agreement with any third party.

M. The applicant, or solar energy producer, shall agree to provide the Township

with an annual report documenting, at a minimum, the following:

1. Age of solar generating facility and the panels contained therein, with an anticipated remaining lifespan.

2. Maximum amount of energy which could have been generated within the last year.

3. Amount of energy produced by the solar energy production facility with monthly breakdown.

4. Operating costs of solar energy facility as available.

5. Overall facility efficiency over the previous twelve (12) month period.

6. Anticipated property and facility upgrades, if any, over the next twelve (12) month period.

SECTION 313.4 Discontinued Use/Decommissioning:

A. Accessory Solar Energy Systems (ASES):

1. Each ASES and all Solar Related Equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by system owner and/or operator, or upon termination of the useful life of same.

2. The ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of twelve (12) continuous months.

3. The ASES owner shall, at the request of the Township, provide information concerning the amount of energy generated by the ASES in the last 12 months.

B. Principal Solar Energy Systems (PSES):

1. The PSES owner or operator shall, at its expense, complete decommissioning of the PSES within six (6) months after the end of the useful life of the facility. The PSES will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months. Decommissioning shall include removal of solar arrays, support equipment, buildings, electrical components and lines, roads, foundations, and any other associated facilities. Disturbed earth shall be graded and reseeded unless the landowner requests in writing and the supervisors approve that the access roads or other land surface

areas not be restored.

2. An estimate for the total cost of decommissioning (Decommissioning Costs) without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment (Net Decommissioning Costs) shall be submitted to the Township for review and approval at the time of building permit application, then after the first year of operation and every fifth year thereafter. The facility owner or operator shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs; provided, that at no point shall Decommissioning Funds be less than twenty-five percent (25%) of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or Commonwealth chartered lending institution chosen by the facility owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the Commonwealth and is approved by the Township. Decommissioning Funds may be in the form of a performance bond, surety bond, letter of credit, or other form of financial assurance ("Financial Security") as may be acceptable to the Township in its sole discretion. If the facility owner or operator fails to complete decommissioning within the required period, then the landowner shall within six (6) months complete decommissioning.

3. If neither the facility owner or operator, nor the landowner complete decommissioning within the required periods, then the Township may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a landowner agreement to the Township shall constitute agreement and consent of the parties to the agreement, and their respective heirs, successors, and assigns, that the Township may take such action as necessary to implement the decommissioning plan. To the extent the Township incurs costs to rightfully perform any act in furtherance of decommissioning, it shall submit documentation of such costs to the facility owner or operator, and the Township shall be permitted to recover such costs from the Financial Security. Any remaining Decommissioning Funds shall be released to the facility owner or operator when the facility owner or operator has demonstrated and the Township concurs that decommissioning has been satisfactorily completed, or upon written approval of the Township in order to implement the decommissioning plan.

4. Requirements associated with the PSES Decommissioning Process:

(a) Decommissioning shall include removal of all panels, Solar Related Equipment, buildings, cabling, electrical components, foundations, and any other associated features, facilities, or related components in their entirety whether above, equal to or below ground. Stormwater facilities and healthy landscaping shall remain undisturbed;

(b) Disturbed earth shall be graded and re-seeded unless the landowner requests in writing that the access roads or other land surface areas not be restored; and

(c) Decommissioning shall be considered complete only after the Township receives, and approves, a letter certifying the satisfactory decommissioning of the PSES site by an independent, certified professional engineering licensed to practice in the Commonwealth of Pennsylvania.

SECTION II: Severability

In the event that any provision, section, sentence, clause, or part of this Ordinance is held to be invalid, such invalidity shall not affect or impair any remaining provisions, section, sentence, clause or part of the Ordinance, it being the intent of the Board of Supervisors of Perry Township that such remainder shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.

SECTION III: Repealer

The Ordinances of Perry Township, Berks County, Pennsylvania, shall be and remain unchanged and in full force and effect except as amended, supplemented, or modified by this Ordinance. All ordinances or parts of ordinances of the Township which are inconsistent herewith are hereby repealed.

SECTION IV: Effective Date

This Ordinance shall become effective immediately upon adoption by the Township of Perry.

DULY ENACTED AND ORDAINED this 13th day of December 2022, by the Board of Supervisors of Perry Township in public session duly assembled.

Attest:

Secretary

BOARD OF SUPERVISORS OF
PERRY TOWNSHIP, BERKS COUNTY

By:

Chairperson