



**Planning and Zoning
Department**

616 Germantown Pike, Lafayette
Hill, PA 19444-1821

484-594-2625

www.whitemarshtwp.org

Subdivision and Land Development Cover
Page for SLD # 03-24

Project Name: Zoning Text Amendment—
Change of Non-conforming Use

Address: Whitemarsh Township

Date: 9.5.2024

Status: Under Review

Updates:

Montgomery County Planning Commission Review- 10.2.2024

Zoning Ordinance Amendment - Change of Nonconforming Uses- 10.16.24

**WHITEMARSH TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF WHITEMARSH TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA, AMENDING THE WHITEMARSH TOWNSHIP ZONING ORDINANCE TO REVISE THE PROVISIONS GOVERNING CHANGES OF NON-CONFORMING USES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Board of Supervisors of Whitemarsh Township has enacted the Whitemarsh Township Zoning Ordinance which contains, *inter alia*, provisions governing changes of nonconforming uses; and

WHEREAS, the current provisions of the Whitemarsh Township Zoning Ordinance governing changes of nonconforming uses are unclear and create confusion for both developers and Township personnel in interpreting them; and

WHEREAS, the Whitemarsh Township Planning Department has recommended that clearer and more objective provisions governing changes of nonconforming uses be incorporated into the Zoning Ordinance to ensure the health, safety, and general welfare of the residents of Whitemarsh Township;

NOW, THEREFORE, be it, and it is hereby **ORDAINED** by the Board of Supervisors of Whitemarsh Township, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

- I. Section 116-192 of the Code of Ordinances of Whitemarsh Township is amended to read as follows:

“116-192. **Change of Nonconforming Uses.**

A nonconforming use may be changed to another nonconforming use only if permitted by special exception granted by the Zoning Hearing Board in accordance with Article XXIX of this Chapter, and after the following conditions are met:

- A. The applicant shall show that a nonconforming use cannot reasonably be changed to a permitted use; and
- B. The applicant shall show that the proposed use will be less objectionable in external effects than the existing nonconforming use with respect to:
 - (1) Traffic generation and congestion, including truck, passenger car, and pedestrian traffic;
 - (2) Noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, or vibration;
 - (3) Storage and waste disposal; and
 - (4) The height, area, and volume of all structures.

- II. Section 116-195 of the Whitemarsh Township Code of Ordinances is hereby repealed in its entirety and shall be labeled "RESERVED".
- III. All ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of the inconsistency.
- IV. The provisions of this Ordinance are declared to be severable. If any provision of this Ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance, the provisions of the Whitemarsh Township Zoning Ordinance, or the provisions of the Code of Ordinances of Whitemarsh Township.
- V. This Ordinance shall become effective at the earliest date permitted by the Whitemarsh Township Home Rule Charter.

ENACTED and **ORDAINED** this _____ day of _____, 2024.

ATTEST:

**BOARD OF SUPERVISORS OF
WHITEMARSH TOWNSHIP:**

Craig McAnally, Secretary

BY: _____
Fran McCusker, Chairman

**MONTGOMERY COUNTY
BOARD OF COMMISSIONERS**

JAMILA H. WINDER, CHAIR
NEIL K. MAKHIJA, VICE CHAIR
THOMAS DIBELLO, COMMISSIONER

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**MONTGOMERY COUNTY
PLANNING COMMISSION**

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SCOTT FRANCE, AICP
EXECUTIVE DIRECTOR

October 2, 2024

Mr. Charles L. Guttenplan, AICP
Director of Planning & Zoning Officer
Whitemarsh Township
616 Germantown Pike
Lafayette Hill, Pennsylvania 19444

Re: MCPC #24-0194-001

**Ordinance Amendment – To revise the Provisions Governing Changes of Non-Conforming Uses
and Repeal all Inconsistent Ordinances**

Whitemarsh Township

Dear Mr. Guttenplan:

We have reviewed the above-referenced zoning text amendment in accordance with Section 609 of Act 247, "The Pennsylvania Municipalities Planning Code," as you requested on September 6, 2024. We forward this letter as a report of our review.

BACKGROUND

The township has submitted for review a proposed amendment to the township's Zoning Ordinance- Section 116-192. *Change of Nonconforming Uses*. The amendment proposes that a nonconforming use may be changed to another nonconforming use only if permitted by Special Exception granted by the township's Zoning Hearing Board and after certain conditions are met. The conditions include various provisions: an applicant must show that the nonconforming use cannot be reasonably changed to a permitted use. In addition, they must show that the proposed use will be less objectionable in the external effects than the existing non-conforming use. These effects include: traffic generation, congestion, pedestrian impacts, health and safety concerns and the dimensional characteristics of any proposed structures.



RECOMMENDATION AND COMMENT

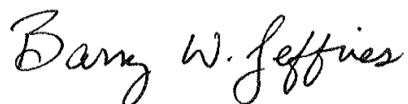
The Montgomery County Planning Commission has reviewed the proposed amendment to the township's Zoning Code and generally supports the proposal as submitted. We have not identified any issue that we believe should be addressed in its consideration and therefore we have no substantive comments. Nevertheless, the municipal staff should ensure that the proposal meets all appropriate municipal land use regulations and other codes prior to granting approval.

CONCLUSION

Please note that any review comment and recommendations contained in this report are advisory to the township and final disposition for the approval of any proposal will be made by the municipality.

Should the governing body adopt this zoning ordinance amendment, Section 609(G.) of the Municipalities Planning Code requires that the County Planning Commission be sent an official copy within 30 days.

Sincerely,



Barry W. Jeffries, ASLA, Senior Design Planner

Barry.Jeffries@montgomerycountypa.gov , 610.278.3444

C:

David Sander, Esq., Whitemarsh Township Solicitor
Krista Heinrich, PE, Whitemarsh Township Engineer
Aaron Kostyk, Township Planning Commission

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MONTGOMERY COUNTY, PENNSYLVANIA**

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ENACTED and **ORDAINED** this _____ day of _____, 2024.

ATTEST:

**BOARD OF SUPERVISORS OF
WHITEMARSH TOWNSHIP:**

Craig McAnally, Secretary

BY: _____
Fran McCusker, Chairman