ENACTED

BOARD OF SUPERVISORS
WHITPAIN TOWNSHIP

MONTGOMERY COUNTY, PENNSYLVANIA

ORDINANCE NO. 4-237

"Community Shopping Center Overlay District Ordinance"

AN ORDINANCE, AMENDING CHAPTER 160 OF THE CODE OF THE TOWNSHIP OF WHITPAIN (ALSO KNOWN AS THE ZONING ORDINANCE OF WHITPAIN TOWNSHIP), FOR THE PURPOSES OF DEFINING A COMMUNITY SHOPPING CENTER AND PROVIDING FOR SUCH USE IN THE COMMUNITY SHOPPING CENTER OVERLAY DISTRICT BY CONDITIONAL USE.

BE IT ENACTED and **ORDAINED** and it is hereby **ENACTED** and **ORDAINED** by the **Board of Supervisors of Whitpain Township** as follows:

Section 1. **Article 160** § **160-7** is amended by adding the following definition:

Community Shopping Center: A retail commercial shopping center incorporating office, medical office (provided adequate parking is provided under the provisions of this ordinance), small scale entertainment, fitness centers, day care facilities, and highway-business uses to serve the shopping and service needs of the immediately surrounding area, and to establish reasonable standards for the appearance, height and size of buildings, the areas and dimensions of yards and open spaces, the provision of facilities to minimize traffic congestion, noise, glare, pollution so as to lessen the danger to public safety and surrounding building values from traffic congestion, overcrowding of land, inadequate provisions for water and sewage facilities and inadequate transportation.

Section 2. **Article 160** is hereby amended by adding a new Article XXXVIII entitled "Community Shopping Center Overlay District" to read as follows:

§ **160-256**. Legislative intent. In expansion of the Community Development objectives contained in this Article it is hereby declared to be the intent of this Article with respect to Community Shopping Center Overlay Districts to overlay and supplement the existing or hereafter created underlying districts, to encourage the preservation and subsequent logical and timely development of land for Community Shopping Center purposes; to assure the suitable design of Community Shopping Centers in order to protect the environment of the adjacent and nearby neighborhoods; and to insure that Community Shopping Center Development will take place only when served by adequate public infrastructure. The protective standards in this Article are intended to minimize any unanticipated adverse impacts of a Community Shopping Center Development on nearby premises.

§ **160-257**. Requirement to qualify for Overlay. In order to qualify for a conditional use in this Overlay District, a portion of the land which is proposed for development must already be zoned SC Shopping Center District or C Commercial District.

§ **160-258**. Permitted Uses.

In a Community Shopping Center Overlay District, after obtaining a Conditional Use from the Board of Supervisors, a building or a combination of buildings may be erected or used and a lot area may be used or occupied for any of the following purposes and no other.

A. Any of the uses set forth in sections 160-163 (A), (C), (E), and (F), and specifically including a food supermarket and drive thru facilities for a bank, savings and loan, credit union or similar financial institution.

B. Restaurant with or without a liquor license, and including up to 3 drive-thru facilities for restaurants of less than 2500 square feet each on the entire contiguous overlay tract, and including outdoor dining at any restaurants if designated on the original Community Shopping Center Plan.

C. Taproom.

D. Municipal Use, including a firehouse.

E. Fitness Center including ancillary daycare facilities for fitness center customers only and ancillary medical office use, under 1800 square feet, for fitness center customers only.

F. Professional and medical offices.

G. Accessory use customarily incidental to any of the above uses.

H. The following uses when authorized by conditional use received from the Whitpain Township Board of Supervisors:

1. Any principal use of the same general character as any of the above-permitted uses when authorized as a conditional use, provided that such use shall be permitted subject to such reasonable conditions or restrictions as the Board of Supervisors may determine as being in the best interests of the public health, safety and general welfare, and further provided that no trade or business shall be permitted which is either noxious or hazardous.

2. Outdoor dining at a restaurant, and day care facilities, except if designated as one of the uses on the original Community Shopping Center Overlay Plan.

I. Signs, when erected or maintained in accordance with this Article or with Article XXVI. In the event of any inconsistency, the provisions of this Article shall control.

§ **160-259**. Community Shopping Center overlay design criteria for conditional use:

A. In order to create a plan which will emulate a modern village center, the plan should include a combination of small and medium sized buildings, having exterior spaces accessible to the general public and designed to achieve the following goals:

1. Promote walkability.

2. Provide adequate and attractive parking areas with interesting small piazza spaces

designed to achieve the scale of a village center.

3. Provide gathering spaces and meeting areas for Township residents and visitors to the Community Shopping Center.

4. Create multiple attractive outdoor spaces that can be shared by the businesses within the Community Shopping Center.

5. Minimize external curb cuts and develop a comprehensive circulation plan both for vehicles and pedestrians which affords safe and convenient external connections to adjoining roads and neighborhoods while providing convenient and attractive parking opportunities for the consumer.

6. Create a plan where, once parked, the consumer can walk comfortably and safely through the center.

7. Provide areas for meeting, seating, outdoor dining and entertainment.

8. Enhance the economic stability of Whitpain Township by promoting growth, redevelopment, attractiveness and convenience of the area.

B Provide with the conditional use application, a booklet or manual of written and graphic design guidelines for buildings, streets, landscaping and pedestrian circulation within the proposed development which shall function as a coordinated and coherent set of drawings. Plans and narratives shall include, but shall not be limited to architectural and landscaping standards, street and circulation systems, signage, building materials, pedestrian walkways , sidewalks and crosswalks, parking screening, lighting, pavilions, gazebos and plazas, street furniture, trash receptacles, amenities and open space operation and maintenance. Such guidelines, when approved by the Board of Supervisors during the conditional use process shall supersede any other provisions of this Code, if and when a conflict occurs.

§ **160-260**. Realization of criteria.

A. Long, unbroken, monotonous façades of buildings and large parking fields shall be avoided, and instead smaller external spaces at a scale consistent with a community style village center designed to promote walking, sitting and gathering areas in association with shopping, dining, and other commercial activities shall be provided.

B. A master plan shall be created which encompasses the entirety of the Overlay District and which achieves the goals outlined for a modern village center including establishing points of ingress and egress at safe and desirable locations along the perimeter road frontage, subject to PennDOT approval.

C. No single tenant or building shall occupy more than 40% of the total gross ground floor area for of all the buildings within the Community Shopping Center.

D. At least three buildings must be located within 120 feet of the ultimate right of way of adjoining road frontages. The elevations of these buildings should include materials, fenestration, and features (consistent with the rest of the Community Shopping Center), that result in interesting front façades facing out to the adjoining streets that are consistent, architecturally and in the use

of building materials, with the rest of the Community Shopping Center.

E. Outdoor green spaces and gathering areas shall be interconnected using enhanced paving materials and shall be finished with ornamental lighting, benches, fountains, clock towers, promenades and the like. These spaces must be internalized and made an integral part of the overall master plan. As part of the conditional use plans, the primary outdoor gathering area proposed shall be offered for public use and gathering on at least 6 (six) weekend dates a year (not including any weekend where any portion of such weekend (Friday through Sunday) shall occur within November 10 and November 30 of each year, without the permission of the property owner) and shall be further described and regulated in the conditional use decision by the Board of Supervisors on the Community Shopping Center application.

F. Sidewalks along the perimeter of the right-of-way and sidewalks traversing parking areas shall be at least five feet in width. Pedestrian walkways shall be a minimum of at least 10 feet in width (with at least 40% of the sidewalks in front of buildings to be at least 18 feet in width and a minimum of 8 feet in width on sides and rear, if any. Parking islands should be designed with a generous amount of trees. Trees along the road frontage shall be spaced at least 50 feet apart to allow sufficient site lines to view the enhanced architectural features of the buildings. Also, ornamental landscaping including flowering trees shall be provided in landscape or other green areas as required by the Board of Supervisors.

§ **160-261**. Community Shopping Center Development Requirements:

A Community Shopping Center shall be developed in accordance with the requirements set forth at § 160-164, except for 160-164.F and as modified in this Article.

A. No more than 22% of the net lot area (after dedication or deed restriction of open space) shall be occupied by buildings, and the minimum District size (before dedication of right of way or deed restriction of open space) shall be 18 acres.

B. Architectural features shall be treated the same as chimneys, spires, towers, elevator penthouses, tanks, and similar projections concerning the height of buildings.

C. No building or structure shall be located closer than 25 feet to the ultimate right-of-way of all adjacent streets, nor closer than 50 feet to a side property line, or 45 feet to a rear property line adjacent to a residential use which is not within the Community Shopping Center Overlay District, nor closer than 25 feet to any property line not subject to the additional standards outlined herein. A loading facility for the Anchor Tenant which does not exceed 4% of the gross floor area of the Anchor Tenant may be as close as 15 feet to a side or rear property line. No setback for buildings or parking shall be required from properties owned by the Commonwealth or the County other than the ultimate right of way of public roads.

D. No parking area may be located closer than 10 feet to the ultimate right-of-way line for all adjacent streets and 25 to a side or rear property line adjacent to a residential, park and recreation, or institutional use.

E. Landscaping for a Community Shopping Center shall be in accordance with Article 160-108, with the exception of paragraph (A) and (C) which shall be substituted with the following:

There shall be no requirement for berming along street frontage and all off street parking areas

shall either have one shade tree for every 10 parking spaces or such required shade trees may be placed in other locations on the Community Shopping Center property if permitted by the Board of Supervisors in the conditional use decision. Shade trees shall be planted every 50 feet along the right-of-way frontage.

F. The shopping center shall be provided with a permanent screen buffer from adjoining and contiguous residential and park and recreation uses by a combination of the following:

Berm, wall, fence, evergreen hedge, or other suitable enclosure of a minimum height of 8 feet which shall be planted in accordance with a plan approved by the Board of Supervisors following a recommendation by the Planning Commission which, at the very least, shall conform to the standards and requirements of § 160-107 Buffer Yards and Planting Materials of this Chapter.

G. An open area of at least 5 acres shall be provided for each contiguous Community Shopping Center Overlay District which shall remain open in perpetuity and offered for dedication to Whitpain Township. If the Township does not accept dedication of the open area, it shall be maintained by the owner of the shopping center, with the top of any berm and the side of the berm facing the Center to be maintained in a mowed lawn and landscaped condition and the side of the berm, facing any property line outside the overlay district, to be maintained in a natural condition, but free of trash and debris. The open area shall be located to protect neighboring residential uses (including the provision of building setbacks of at least 250 feet to the rear of the Community Shopping Center boundary (shared with a residential use) and 225 feet to the side of the Community Shopping Center (shared with a residential use)) and acceptable in shape and location to the Board of Supervisors of Whitpain Township.

H. Development stages and permits. The development of the tract carried out in either a single phase or in stages shall be executed in accordance with the development agreement. The owner, developer, and Township shall enter into said agreement embodying all details regarding compliance with this Article to assure the binding nature thereof on the overall tract and its development, which agreement shall be recorded.

I. Trash and refuse areas. The design of buildings in the community shopping center shall include either a provision for the storage of trash, refuse and garbage inside the buildings or within a walled area outside of the buildings. The walls of such trash and refuse area must shield the trash and refuse from direct view of any adjacent property, and must be at least 6 feet in height.

J. Building standards.

1. Rear and side façade shall be of finished quality and shall be of a color that is similar to the front façade and blend with structures within the development. All buildings shall have a common and coherent architectural theme throughout the development.

2. Building façades must be interrupted at least once every 200 horizontal feet with offsets of 2 or more feet in depth along any building façade facing a public street.

3. Building façades of 200 feet or more which face public streets shall in addition to offsets include other design elements to break up the façade, such as awnings, canopies, towers, bays, changes in building materials, and gables.

4. Roof lines shall be varied to add visual interest and to reduce the scale of larger buildings.

K. If eating and drinking establishments are (at any time) to comprise more than 30% of the total

square footage of the community shopping center a conditional use to provide required parking spaces must be obtained.

L. Further subdivision of tract. Where the Township Board of Supervisors shall have approved plans for a Community Shopping Center in accordance with the regulations herein, and including parcels not held in single and separate ownership, the subsequent division of the tract or a part thereof into lots incident to the development of the Community Shopping Center use for financing or land swap purposes shall thereafter be exempted from the bulk, area, yard, open space, and green space requirements of the Whitpain Township Zoning Ordinance, provided that the conveyance of a parcel within the development plan area shall be lawful, and upon compliance with the following conditions as certified by the Board of Supervisors:

1. The development plan shall show a physical relationship between the area to be conveyed, the remaining area covered by the development plan, and the common areas so that each area is dependent upon the other and so that the areas to be financed or swapped do not lack the facilities to conduct an independent operation. The overall combination of the lots so created within the Community Shopping Center District shall comply in all respects with the bulk, area, yard, open space and green space requirements of the Whitpain Zoning Ordinance

2. Documentary evidence shall be filed with the Township, and shall affirm to the satisfaction of the Township that:

   (a) The developer, its successors and assigns, shall remain responsible for the construction, control, and maintenance of the common areas.

   (b) Irrevocable cross easements in favor of and duly binding on all title owners within the area of the development plan, their successors and assigns, with respect to the use, control, and maintenance of the common area are in effect.

   (c) The area to be conveyed shall be conveyed subject to the requirements of the development plan, the obligations and responsibilities as to the common areas, and the requirements of the cross easements, so that each transferee of title as aforesaid shall be bound by the same.

   (d) The developer, its successors and assigns, shall have the authority to enforce the conditions attached to the development plan as well as the sole authority to seek amendments thereto.

M. Signs. For purposes of a Community Shopping Center an anchor store shall be considered to be any store that is 15,000 square feet or larger. Notwithstanding any other regulations of this Zoning Ordinance to the contrary, the sign criteria for Community Shopping Centers shall be as set forth on Exhibit "A" attached hereto.

N. Green area. Any lot used or occupied for a Community Shopping Center Development shall be provided with a minimum green area of 35%, as defined in Section 160-214 of this Ordinance, which shall include the required open area of at least five contiguous acres.

O. Outdoor Storage and Display. No outdoor storage shall be permitted, but outdoor display of not more than 10% of the total sidewalk area in front of the store shall be permitted for the anchor tenant and one other tenant, provided that such display does not in any way interfere with pedestrian access and passage on the sidewalk in front of the display of at least 8 feet in width.

P. Specific Parking Requirements for the Community Shopping Center Overlay District. Parking consistent with the requirements of Article XXVII shall be provided except that the number of such spaces provided shall be 4.5 per thousand square feet of gross ground level floor area (including the area of all outdoor eating or drinking locations, even if seasonal) and 3 per thousand square feet of second floor or mezzanine area (limited to 10,000 square feet in any supermarket or fitness facility), and with any other mezzanine or second floor area parked at five per thousand square feet.

Q. Outdoor Eating and Drinking Locations. Any tenant in the Community Shopping Center which offers food or beverage for consumption indoors shall be permitted an immediately adjacent outdoor area for the purpose of food or beverage consumption, provided such outdoor area does not exceed 15% of the total indoor square footage of the tenant and further provided that the "outdoor display" requirements of section 260-161 (O) (regarding access and passage) above are addressed. Notwithstanding the general limitation on the area of outdoor square footage permitted for a single tenant set forth in the immediately preceding sentence, one restaurant tenant in a Community Shopping Center shall be permitted outdoor area for the purpose of food or beverage consumption of up to 40% of the total gross indoor floor area of the tenant. No amplified sounds or music shall be permitted in such outdoor dining areas without first applying for and obtaining a conditional use from the Board of Supervisors.

Section 3. Repealer. All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

Section 4. Severability. In the event that any section, sentence, clause, phrase or word of this ordinance shall be declared illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude, or otherwise foreclose enforcement of any of the remaining portion of this ordinance.

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SEE NEXT PAGE FOR SIGNATURE

ENACTED and **ORDAINED** by the **BOARD OF SUPERVISORS** of **WHITPAIN TOWNSHIP** this 21st day of January, 2015.

WHITPAIN TOWNSHIP

By: _____
Frederick R. Conner, Jr., Chairman
Board of Supervisors

Attest: _____
Anthony F. Greco, Secretary

CERTIFICATION

I, ROMAN M. PRONCZAK, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT I AM THE TOWNSHIP MANAGER OF WHITPAIN TOWNSHIP, A SECOND CLASS A TOWNSHIP IN MONTGOMERY COUNTY, PA AND THAT ATTACHED HERETO IS A TRUE AND COMPLETE CORRECT COPY OF ORDINANCE #4-237.

_____
Roman M. Pronczak, Township Manager
JANUARY 21, 2015

Exhibit A - Sign Criteria - Community Shopping Center Overlay

In addition to the requirements Article XXVI, the following provisions shall apply to the Community Shopping Center Overlay District.

160-183 General Sign Specifications

A. Sign Area –

(1) If the sign consists of channel letters on a raceway and the raceway matches the façade of the building, then the sign area calculations shall not include the background between the spaces of the channel letters.

160-191 D Schedule of Sign Regulations

Permitted Signs	Types of Signs Allowed	Sign Area (square feet)	Number of Signs	Illumination
*(5) Community Shopping Center District	A	200	1 ground sign Per street frontage	A or B; on timer, off by one hour after closing of latest establishment
Anchor and Co-anchor having a minimum gross floor area of 20,000 square feet	B or C	150	1 per street frontage	A or B; on timer, off by one hour after Closing of latest Establishment
Non-anchor; individual establishment Identification	B or C	30	1 per street frontage	A or B; on timer, off by one hour after Closing of latest Establishment
Non-anchor; individual establishment Setback over 350 feet from the primary road	B or C	40	1 per street frontage	A or B; on timer, off by one hour Closing of latest Establishment
Non-anchor; individual establishment Setback over 350 feet from the primary road with a store front exceeding 40' feet	B or C	50	1 per street frontage	A or B; on timer, off by one hour after closing of latest establishment