

December 2, 2015
Curtis Hall

A regular meeting of the **BUILDING AND ZONING COMMITTEE** was held tonight, Chairman Morton J. Simon, Jr. presiding. Members present were Commissioners Holland, Norris, Rappoport, and Sharkey.

Staff present were Alyson Elliott, Assistant Township Manager; Henry Sekawungu, Director of Planning/Zoning; and Bryan T. Havir, Township Manager. Also present was Joseph M. Bagley, Esq., Solicitor. A Public Attendance List is attached.

Mr. Simon called the meeting to order at 8:40 p.m.

1. The Committee reviewed the Zoning Hearing Board Agenda items for December 14, 2015 as follows:

APPEAL NO. 15-3538: Appeal of Cedarbrook Plaza, owner of the premises known as 1000 S Easton Road, Wyncote, PA 19095 from the Decision of the Zoning Officer for variances from Section 295-197.C.(2)(b)(1), shopping center signs, in order to allow for a tenant sign to be erected on a façade of the building that does not directly abut the tenant space, and for the sizes of the two (2) proposed signs to be 128 sq. ft. on the front façade in place of the allowed 75 sq. ft. and 116 sq. ft. on the side façade in place of the allowed 79 sq. ft. in the C-2 Commercial Zoning District.

Present was Cedarbrook Plaza Manager Lori Stopyra who reviewed the appealed and stated that it is being requested as a relief for a tenant that does not abut a façade, and she reviewed the size and location of the signage.

Mr. Sekawungu reported that the Planning Commission recommended no action. Mr. Sharkey asked for an update on the Plaza's business and on the Pathmark closing. Ms. Stopyra stated that a Fresh Grocer will be leasing the former Pathmark site, the former AJ Wright space has been leased, on the whole business is looking positive. Mr. Holland asked how identification of businesses compatible with the area is accomplished and if there were plans for expansion. Ms. Stopyra stated that it comes come to demographics, and retailers are coming to them. There is also a professional retail consulting source that is used. Ms. Stopyra advised that there are no plans to expand the Plaza since the tenants want visibility and not have their store fronts blocked so there is no place to go.

2. The Committee reviewed a Second Amendment and Stipulation Settlement Agreement between Wyngate Homeowners, Good Pro Cheltenham and Cheltenham Zoning Hearing Board and the Township. Mr. Bagley advised that page 11 (B) constitutes the crux of the settlement, prevents the matter from going back to the Zoning Hearing Board, and all parties are in agreement with the settlement.

In response to a question from Mr. Holland, Mr. Bagley stated that the buffer area is located at Limekiln Pike on the Wawa side. Ms. Rappoport was concerned about protection of the riparian buffer as it relates to Page 11, Items 4,5,9, which she felt impacted said buffer and wanted more plantings to protect the stream and compensate for a smaller buffer. Mr. Bagley stated that Ms. Montgomery reviewed the plan in this respect, and did not foresee a negative impact. Mr. Simon questioned Page 11, Item 5 – whether or not the referenced transmission lines were underground and Item 4 – the significance and size of the required yard area. He objected to certain provisions in the Requested Relief from the Zoning Ordinance, i.e. allowance of up to 8 attached single-family buildings for Parcel 3B; location of utility transmission lines near the Riparian Corridor Conservation District and from the top of the stream bank; and the provision of relief as the Township may deem necessary as stated in Item 5 (A)(9) since it indicates automatic approval. Mr. Bagley felt that many of these concerns would be best addressed by Township Engineer Amy Montgomery at the Public Works Committee meeting on December 9. The Committee agreed to recommend its execution to the Board of Commissioners on December 16, 2015 and to have it further reviewed by Staff and the Public Works Committee at its meeting on December 9, 2015.

Public Comment

Donna Powell, President of the Wyngate Homeowners Association, stated the bus shelter will be moved to MacDonald Avenue and the previous location will not be townhouses. She reported that several new homes are being built and are being sold by Ryan Homes. Wawa has given a parcel to the association.

Recommendation to the Board of Commissioners: Upon motion of Mr. Holland, the Committee recommended to the Board of Commissioners the execution of a Second Amendment to the Stipulation and Settlement Agreement among the Wyngate Development Homeowners, Good Pro Cheltenham L.P., the Zoning Hearing Board of Cheltenham Township, and Cheltenham Township relating to the 3.63 +/- acres fronting Ogontz Avenue, Limekiln Pike, MacDonald Avenue, and Clubhouse Lane, Wyncote, PA, provided the Public Works Committee does not render a contrary decision when it reviews said agreement on December 9, 2015 (see attached) (Ayes: Holland, Norris, Simon, Sharkey; Abstain: Rappoport).

3. The Committee reviewed a proposed Verizon telecommunications facility at 7900 Old York Road, Elkins Park. The Township has been provided with an Invitation to Comment in compliance with the National Historic Preservation Act. Mr. Simon reviewed the plan and noted that the height is smaller than what currently exists. There are no comments from the Committee.

Upon motion of Mr. Simon, the Committee unanimously agreed to take no action.

4. The Committee reviewed a Revised Proposed Floodplain Conservation District Overlay Ordinance. It was Ms. Rappoport's opinion that such zoning ordinances needed to be tied into the Sustainability Plan; ecological stewardship is stressed, and said Ordinance should increase tree coverage to implement the Sustainability Plan; in such Ordinances an additional criterion should include a mass planting with specificity to size and quantity. Mr. Simon suggested that the definition of Permits be added and referenced to a Permit Section and had

certain linguistic changes regarding Section 1 (B), (E), (F), (H), (I), and in Item (O), suggested that the word “altered” that he considered too broad be replaced with “substantially improved”. He questioned the penalty fee reduction to \$500.00. Mr. Simon felt that due to the timeline needed to meet the March 2, 2016 deadline, there was not a lot of time to allow for substantive items. Mr. Sharkey suggested that Commissioners provide their suggestions to Staff and Mr. Bagley so that the Ordinance could be reconsidered at the Public Works Committee meeting.

Upon motion of Mr. Simon, the Committee unanimously agreed to table further discussion of said Ordinance to the Public Works Committee meeting on December 9, 2015.

5. The Committee reviewed a Proposed Billboard Overlay District Ordinance. Mr. Bagley reviewed the Ordinance and its purpose. He noted that this is actually the second part of a current billboard ordinance in the Code that addresses the billboard regulation in the Township. Mr. Bagley reported that many municipalities are being challenged in court, and this Ordinance assures that the current existing billboard on Route 309 is a valid conforming billboard and to allow for one (1) additional sign in the Overlay District.

Mr. Bagley noted the following: Page 4, Item 8, “luminous” (amount of light coming out of a sign) – Staff is working with a lighting engineer on this issue, and a goal is to make sure that the existing billboard remains conforming, and Mr. Simon questioned the term “NITS”; Page 5, Item 11 – this needs to be changed since it could create a two-faced sign facing residential properties and the paragraph restated to read that any sign would have one (1) face only with one (1) neutral color.

Mr. Sharkey asked about a landscape plan. Mr. Bagley stated that Mr. Havir had requested such a plan but he [Mr. Bagley] did not include it since it would have rendered the Keystone billboard on Route 309 non-conforming. Ms. Rappoport suggested a grandfathering clause. Mr. Bagley responded that he would review it. Ms. Rappoport asked if LED signs could be regulated. In her opinion, the current billboard allows for changing messages that are a distraction to motorists. Mr. Bagley noted the provision in Item 7 for animation, and the current Keystone billboard is allowable as part of the settlement with Keystone. To date, no complaints have been received. As far as on-premises LED signs are concerned, Mr. Sekawungu stated that the Township has no Ordinance regulating them but applicants are advised that the Township does not want them. Ms. Rappoport believed that height and illumination are important; there seems to be an intensity of lighting; and consideration should be given to amending the sign ordinance since she considered them disturbing and a public safety issue. She disapproved of the message changing every 7 ½ seconds as it does on the Keystone sign. Mr. Bagley stated that this is a Keystone regulation.

In response to a question from Mr. Holland, Mr. Bagley confirmed that the location on a lot and radii of 600 linear feet is the distance from a building and not the property line and that there is verbiage in the Ordinance that speaks to the distance between signs in Item 4. Mr. Holland was concerned about closed proximity to Cedarbrook Middle School. Mr. Bagley stated an applicant would be prohibited from erecting it too close to the school and would have to adjust the location. Mr. Holland stated that conceivably a sign could be erected on Shoppers Lane and at the liquor store in the vicinity of Limekiln Pike that could potentially be 3-4 sided. Mr. Bagley stated that the Ordinance allows for a one-sided sign. Mr. Holland asked how to

prevent additional signs to which Mr. Bagley responded that a reduction in the size of the Overlay District could accomplish this. Mr. Holland was concerned that multiple signs in one Overlay District could be a potential problem.

Mr. Simon suggested that the descriptive verbiage be changed to shorten the ordinance text i.e. the term "OPAS" (Off-Premise Advertising Sign) instead of repeating descriptions such as "outdoor advertising sign"; Paragraph 4 – footage and distance be clarified, needed specificity, and consistency especially relating to residential buildings; Paragraph 6 – concern about emit a verbal announcement or noises since there should be no sound coming from the signs; Paragraph 7 Lighting – he suggested changes to read that the sign measured on the ground at the curb line be more emphatic about interfering with a driver's operation of his/her vehicle. Paragraph 19 (b) – he did not feel that there should be advertising of Chamber of Commerce or religious events with which he had a First Amendment problem. Mr. Bagley felt this could be removed without an adverse effect.

Recognizing that several changes were recommended this evening, the Committee unanimously agreed that the Ordinance would be further reviewed by Staff and the Solicitor and be returned to the Committee with changes/recommendations as discussed at the January 6, 2016 Building and Zoning Committee meeting.

Recommendation to the Board of Commissioners: Upon motion of Mr. Simon, the Committee unanimously recommended to the Board of Commissioners the adoption of a Resolution authorizing the publication of a Legal Notice on January 31, 2016 and on Sunday, February 7, 2016 indicating that the Commissioners will hold a Public Hearing on February 17, 2016 to consider and possibly adopt an Ordinance amending the Zoning Map to create the "Off Premises Advertising Sign Overlay District" to regulate the installation and operation of off-premises advertising signs or billboards (see attached).

6. There was an update and discussion on a Proposed Local Landmark Ordinance. Said Ordinance has been discussed for several years and still has aspects that have not yet been resolved.

Mr. Simon reviewed the history of the Ordinance and the most recent version (Version #10) that was considered last year. He noted that the main unresolved aspects of the Ordinance include the following: the definition of "demolition" – in its entirety or partially and if partially, what constitutes partial demolition (50% or more) of a property; the definition of "demolition of neglect" – he stated that it is unclear on how neglect is determined and what it means and suggested that a process was needed for this definition, he wanted a stronger definition; and "relocation" – if a property owner wishes to relocate a building. Mr. Simon believed that anything less than complete demolition except demolition by neglect complicates the ability to write a simple Ordinance.

Mr. Simon had additional concerns: The definition of "by neglect" should be the absence of routine maintenance and repairs and the reasonable significant possibility that a building could not be rehabbed or reused and is in decay by negligence or willful neglect as determined by the Township's Zoning Officer; the civil penalty of \$600.00 per day plus cost of prosecution was inadequate. Mr. Bagley responded that said penalty is part of the First Class Township Code but

could be increased to \$1,000.00. Further, Mr. Simon felt that most residents do not want their property encumbered by an administrative process similar to the Property Maintenance Code.

Mr. Sharkey noted that at the last meeting of property owners, there was a lot of contention about partial demolition. Property owners felt it was a complicated matter especially as it relates to improvements/changes they want to make to their property.

Ms. Rappoport stated that the goal of the Ordinance is to protect local landmarks, and it should be viewed in those terms. According to Ms. Rappoport, the point is preserving what is there and not a question of dealing with percentages of demolition and preservation.

Public Comments

David Cohen stated that the intent of the Ordinance is to be clear that people could maintain and renovate their properties without it being construed as demolition. The more this process drags on, the more we can lose more buildings. He did not feel the Ordinance had to be perfect, just valid and legitimate.

The Committee unanimously agreed that Staff and the Township Solicitor draft a new version of the Ordinance to resolve the outstanding aspects and that it be reviewed by the Committee at its January 6, 2016 meeting.

7. Recent decisions of the Zoning Hearing Board were reviewed as follows:

Appeal No. 15-3532: Appeal of Christopher Colquitt, owner of the property located at 408 Old Farm Road, Wyncote, PA 19095, for relief for the construction of an approximately 4' x 8' shed on the right side and a 7' x 8' addition to the left side of an existing rear porch to encroach within the minimum rear yard setback and increase the existing rear yard nonconformity.

The Zoning Hearing Board granted applicant's request for relief.

Upon motion of Mr. Sharkey, and unanimously approved by the Committee, no action was taken.

Appeal No. 15-3536: Appeal of Armindo Reis and Maria Helena Barboza, owners of the property located at 135 Washington Lane, Wyncote, PA 19095, for a variance to erect an open fence of 6' in the front yard in place of the allowed 4' fence.

The Zoning Hearing Board granted applicants' request for relief.

Upon motion of Mr. Sharkey, and unanimously approved by the Committee, no action was taken.

Appeal No. 15-3537: Appeal of Penrose Medical Investments, LLC, owner of the property located at 1831 W. Cheltenham Avenue, Melrose Park, PA 19027, for relief to expand the existing medical office use into the adjoining building at 1829 W. Cheltenham Avenue, formally a real estate office in the R-5 Residential Zoning District.

The Zoning Hearing Board granted applicant's request for relief, subject to conditions.

Upon motion of Mr. Sharkey, and unanimously approved by the Committee, no action was taken.

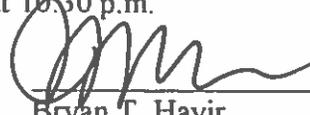
8. Upon motion of Mr. Simon, the Report of the Building Inspector for November, 2015 was unanimously received.

9. Under Old Business: None.

10. Under New Business: Mr. Cohen gave Ms. Rappoport an update on the Cedarbrook Middle School auditorium addition.

11. Under Citizens' Forum: None.

There being no further business, upon motion of Mr. Norris, and unanimously approved by the Committee, the meeting was adjourned at 10:30 p.m.



Bryan T. Havir
Township Manager

as per Anna Marie Felix



PUBLIC ATTENDANCE LIST
PUBLIC SAFETY COMMITTEE – 7:30 P.M.
PUBLIC AFFAIRS COMMITTEE – 7:45 P.M.
BUILDING AND ZONING COMMITTEE – 8:00 P.M.
Wednesday, December 2, 2015
Curtis Hall

NAME <i>(Please Print Clearly)</i>	ADDRESS <i>(Please Print Clearly)</i>	E-MAIL and/or TELEPHONE <i>(Please Print Clearly)</i>
Paul Parsky		
Edie Cerebi	300 Maple Ln	
DAVID C. CARTER		
Donna Powell		

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**ATTORNEY FOR:
MATRIX CBH, L.P.**

IN RE: APPEAL OF WYNGATE
DEVELOPMENT HOMEOWNERS FROM
THE DECISION OF THE ZONING
HEARING BOARD CHELTENHAM
TOWNSHIP

: IN THE COURT OF COMMON PLEAS
: MONTGOMERY COUNTY,
: PENNSYLVANIA
: CIVIL ACTION - LAW

: No. 2014-17464

: LAND USE APPEAL
:

**SECOND AMENDMENT TO STIPULATION AND
SETTLEMENT AGREEMENT**

THIS SECOND AMENDMENT TO STIPULATION AND SETTLEMENT AGREEMENT ("Second Amendment") is made and entered into this _____ day of _____, 2015, by and among the parties of record in this appeal, the Wyngate Development Homeowners, Good Pro Cheltenham L.P., the Zoning Hearing Board of Cheltenham Township, and Cheltenham Township as well as JAMES A. ROSENSTEIN, ESQUIRE, attorney for Wyngate Development Homeowners ("Wyngate" or "Appellant"), the Appellant, PETER S. FRIEDMAN, ESQUIRE AND MICHAEL YANOFF, ESQUIRE, attorneys for Good Pro Cheltenham, L.P. ("Good Pro" or "Appellee"), CAROL M. LAUCHMEN, ESQUIRE, solicitor to the Zoning Hearing Board of Cheltenham Township

(the "Board"), and JOSEPH M. BAGLEY, ESQUIRE, solicitor to Cheltenham Township (the "Township").

BACKGROUND

a. Good Pro is the equitable owner of the premises consisting of 3.63± acres, having frontage on Ogontz Avenue, Limekiln Pike, MacDonald Avenue and Clubhouse Lane in Cheltenham Township, Montgomery County, Pennsylvania, as described on Exhibit "A" to that certain "Stipulation and Settlement Agreement" referred to in paragraph i of this Background (the "Property"), and the premises consisting of approximately 3 +/- acres with frontage on Clubhouse Lane in Cheltenham Township, Montgomery County, Pennsylvania, labeled "Parcel 3B" and described on Exhibit "B" to the Stipulation and Settlement Agreement ("Parcel 3B"), which is part of "Parcel 3" as shown on a certain Subdivision Plan, being sheet 1 of certain plans entitled "The Fairways at Cedarbrook Hill & Cedarbrook Apartments", prepared by Bohler Engineering, Inc., dated December 12, 2003, revised through September 30, 2004 and recorded on September 28, 2005 as Plan 25 (pages 260-272) in the Office of the Recorder of Deeds in and for Montgomery County (the "Recorder's Office").

b. Wyngate is a group of 29 residents of the Wyngate residential community development which is located directly adjacent to the Property, which is described on the Exhibit "C", attached to the Stipulation and Settlement Agreement ("Parcel 1"). The Wyngate residential community is a planned community which is approved for a total of 198 townhomes and is sometimes hereinafter referred to as the "Wyngate Townhome Community".

c. Good Pro submitted an application to the Board for approval of variances in connection with the development of the Property. The application is identified as Appeal No. 3468.

d. On or about May 12, 2014, the Board issued its Findings of Fact, Opinion and Order (the "Decision") approving the variance relief in connection with Good Pro's proposed development of the Property, a copy of which is attached as Exhibit "1" to the Stipulation and Settlement Agreement.

e. On or about June 11, 2014, Wyngate filed a Notice of Land Use Appeal concerning the Decision in Appeal No. 3468 (the "Appeal").

f. On or about June 27, 2014, the Board filed an Entry of Appearance in the Appeal.

g. On or about July 1, 2014, the Township filed a Notice of Intervention in the Appeal.

h. On or about July 8, 2014, Good Pro filed a Notice of Intervention in the Appeal.

i. Good Pro, Wyngate, the Board and the Township reached agreement on the terms of a settlement to resolve all of the issues raised by Wyngate in the Appeal and entered into a Stipulation and Settlement Agreement dated March 6, 2015, containing the agreed terms, said agreement having been approved by Court Order dated April 28, 2015 (the "Stipulation and Settlement Agreement").

j. Matrix CBH, L.P., a Pennsylvania limited partnership, is the record owner of Parcels 3A and 3B as referenced in the Stipulation and Settlement Agreement (hereinafter "Matrix"); and the Fairways at Cedarbrook Hills, L.P., a Pennsylvania limited partnership

("The Fairways"), the Wyngate Community Association, a Pennsylvania not-for-profit corporation ("Community Association"), and the members of the Community Association are the record owners of the various parts of Parcel 1 as referenced in the Stipulation and Settlement Agreement.

k. In order to implement several of the terms of the Stipulation and Settlement Agreement it will be necessary to create and impose various easements, rights, obligations and restrictions (collectively, the "New Easements") upon the Property (referred to as "Parcel 2" in the below mentioned Declaration of Easements) and Parcels 1 and 3A. Since they and the balance of Parcel 3 are already subject to a certain Declaration of Easements and Cross Easement Agreement, dated June 2, 2008, by and among Matrix, The Fairways and the Township, recorded on June 5, 2008 in the Recorder's Office, as Instrument No. 2008058865, in Deed Book 5695, at pages 295-316 (the "Declaration of Easements"), the most expeditious way to accomplish such implementation is to incorporate the New Easements into the Declaration of Easements by an amendment thereto, a draft of which is attached as Exhibit "D" to the Settlement and Stipulation Agreement, as it may be revised before becoming effective for one or more of the reasons described in paragraph 14 of the Stipulation and Settlement Agreement and/or paragraph 4 of this Second Amendment (the "Amendment to Declaration of Easements").

l. The parties hereto agree that the Community Association, in which the individuals and entities constituting Wyngate are members and which owns and/or will own portions of Parcel 1, Matrix and The Fairways are third-party beneficiaries to this Agreement because each of them holds equitable or legal title to some portion or portions of the Property

and Parcels 1 and 3 that will be affected by the Amendment to Declaration of Easements and/or this Second Amendment to Stipulation and Settlement Agreement.

m. The parties entered into a First Amendment to Stipulation and Settlement Agreement dated July 31, 2015 permitting Good Pro to commence and perform earth moving from Parcel 2 to Parcel 3B (the “First Amendment”).

n. Subsequent to the execution and approval of the Stipulation and Settlement Agreement, Matrix and Community Association entered into discussions regarding the development of Parcel 3B with additional residences and the construction of certain improvements that will benefit both the Wyngate Townhome Community and the owner of Parcel 3B, as more fully hereinafter described in Paragraph 4 of this Second Amendment (the “Additional Common Improvements”). These discussion have culminated in a proposal (with the consent of the other parties and third-party beneficiaries to the Stipulation and Settlement Agreement) that, instead of Parcel 3B being conveyed to the Wyngate Community Association (the “Community Association”) as is contemplated by Section 6(a) of the Stipulation and Settlement Agreement, if all required governmental approvals are obtained Matrix will develop Parcel 3B with twenty-eight (28) townhomes and ancillary facilities (the “Parcel 3B Project”), as shown on the Second Amendment Plan dated October 14, 2015, prepared by Bohler Engineering and J. S. Baran, professional engineer, which is attached hereto as “Exhibit “F-1” (the “Parcel 3B Development Plan”).

o. The parties hereto desire to amend the Stipulation and Settlement Agreement, as modified by the First Amendment, to incorporate terms and conditions relating to the proposed development of the Parcel 3B Project and the Additional Common Improvements.

NOW, THEREFORE, the parties hereto, in consideration of the foregoing preambles and mutual covenants contained herein, intending to be legally bound hereby, agree as follows:

1. Effectiveness of this Second Amendment.

(a) Promptly after the execution of this Second Amendment, Matrix shall take all reasonable business steps to obtain all governmental approvals (collectively the “Required Governmental Approvals”) that are required to enable Parcel 3B to be developed, substantially in accordance with the Parcel 3B Development Plan, as it may be modified in accordance with Paragraph 1(b) hereof, (i) with the Parcel 3B Project; and (ii) together with a “Proposed Community Center” and certain other improvements shown thereon which (if constructed) are intended either for the exclusive use of the Community Association or to be shared with the owners of property in Parcel 3B and which will be located partially or entirely outside Parcel 3B, including (but not limited to) the “Proposed Bus Shelter”, paved walking paths serving such school bus shelter (comprising part of the “Proposed Trail”), the “Walking Trail”, approximately 663 lineal feet of “Estate Style Fencing”, and forty (40) proposed additional parking spaces.

(b) The parties acknowledge that (i) the process of obtaining the Required Governmental Approvals for some or all of the improvements listed in Paragraph 1(b)(ii) of this Second Amendment may entail an administrative amendment to the existing land development approval rather than a new land development approval process, in which event both shall be pursued contemporaneously; and (ii) in order to obtain the Required Governmental Approvals, changes may be required to the Parcel 3B Development Plan during the Township land development review process. However, any modifications to any of the

improvements listed in Paragraph 1(b)(ii) of this Second Amendment from the way they appear on the Parcel 3B Development Plan shall not be made without the review and approval of the Community Association, which approval shall not be unreasonably delayed or withheld.

(c) If and when final and unappealable Required Governmental Approvals (as they may be changed in accordance with Paragraph 1(b) of this Second Amendment) are issued for the Parcel 3B Project, Matrix shall so notify in writing all of the other parties and all third-party beneficiaries to the Stipulation and Settlement Agreement (collectively, the "Signatories"). Thereupon, Paragraphs 2 through 9 of this Second Amendment shall become effective, without the need for any further act or deed; and (i) if the "Additional Development Agreement" (defined in Section 4 of this Second Amendment) has then been entered into by Matrix and the Community Association, Matrix shall apply the "Parcel 3B Payment" (defined in Paragraph 4 of this Second Amendment) pursuant to the Additional Development Agreement, or (ii) otherwise, Matrix shall pay the Parcel 3B Payment directly to the Community Association for whatever purposes it decides to use such funds.

(d) However, if and when Matrix determines that it will not be receiving such final and unappealable Required Governmental Approvals for the Parcel 3B Project, it shall so notify in writing all of the Signatories, whereupon, without the need for any further act or deed and this Second Amendment shall be null, void and of no further force or effect, and the Stipulation and Settlement Agreement as amended by the First Amendment shall continue in full force and effect.

2. Settlement Plan. The Settlement Plan attached to the Stipulation and Settlement Agreement as Exhibit "F" is hereby supplemented by the Parcel 3B Development Plan. In the

event of any inconsistencies between the Settlement Plan and the Parcel 3B Development Plan, the latter shall prevail. All references to the Settlement Plan in the Stipulation and Settlement Agreement shall henceforth be deemed to refer to the Settlement Plan as supplemented by the Parcel 3B Development Plan.

3. School Bus Shelter. Paragraph 3 of the Stipulation and Settlement Agreement is hereby amended to read in full as follows:

“3. **School Bus Shelter.** Good Pro, at its own cost and expense, shall install a three-sided, transparent, walled and roofed school bus shelter with bench seating for 15 children, standing room for additional children and equipped with a light fixture. The school bus shelter shall be installed on a concrete pad, together with walkways hereinafter more fully described (collectively, the “School Bus Shelter Facilities”). The appearance and type of construction of the school bus shelter shall be approved by the Community Association, which approval shall not be unreasonably withheld or delayed. The School Bus Shelter Facilities shall be located on Parcel 1 where depicted on the Parcel 3B Development Plan as “Proposed Bus Shelter” and the ancillary walkways shall be located where “Proposed Trail” is shown along McDonald Avenue between the Proposed Bus Shelter and two ends of the “Existing Trail”; provided, however, the Community Association reserves the option to relocate the School Bus Shelter Facilities to another location on Parcel 1 that is determined by Community Association to be safer and/or more convenient for the children residing in the Wyngate Townhome Community; and further provided that such relocation occurs prior to the time that Good Pro commences construction of any of the School Bus Shelter Facilities. The relocation and construction of the School Bus Shelter Facilities shall be subject to obtaining all necessary approvals from the Township, which Matrix shall obtain at its cost and expense. If so approved, the School Bus Shelter Facilities shall be completed and turned over to the Association for its use prior to the time that Wawa opens for business at the Property. Good Pro agrees that, at that time, it will assign to Community Association any and all warranties it may receive with respect to the School Bus Shelter Facilities, and to contribute to the Community Association the amount (if any) by which the cost of constructing the School Bus Shelter Facilities on Parcel 1 is less than would have been the cost of constructing the School Bus Facilities on Parcel 3B as shown on the Settlement Plan and as provided for in the Stipulation and Settlement Agreement (the “Initial Cost”). In the further event that the School Bus Facilities are not approved by the Township, despite the good faith efforts of Good Pro to obtain such approval, this Agreement shall nevertheless remain in full force and effect and Good Pro shall contribute to the Community Association the full amount of the Initial Cost. The

Community Association and Matrix (on behalf of the future residents of Section 3B, if any) agree that, after the turnover of the School Bus Facilities to the Community Association, they shall both be responsible for the maintenance, repair and/or replacement of the School Bus Shelter Facilities, as well as the metered cost of electricity to light the school bus shelter, all as will be more fully described in the “Additional Development Agreement” referred to in Paragraph 6(d). Any advertising which may be installed on the school bus shelter shall be of a non-illuminated, non-electronic type and shall conform to all applicable Township Codes. Any compensation for advertising on the school bus shelter shall be paid to the Community Association.”

4. **Parcel 3B.** Paragraph 6 of the Stipulation and Settlement Agreement is hereby amended to read in full as follows:

“6. **Parcel 3B.**

“(a) Matrix shall retain ownership of Parcel 3B, the revised boundaries of which shall be established as shown on the Zoning Plan (Parcel 3B) prepared by Bohler Engineering dated June 4, 2015 (the “Revised Zoning Plan”), for the purpose of constructing thereon the Parcel 3B Improvements and such of the Community Improvements as will be located on Parcel 3B pursuant to Paragraph 6(c). Promptly after execution of the Second Amendment to Stipulation and Settlement Agreement, Matrix shall apply for all Required Governmental Approvals expeditiously and shall complete construction of the Parcel 3B Improvements after receipt of such approvals. Among other things, the “Additional Development Agreement” referred to in Paragraph 6(c) will set forth whether, when and on what terms and conditions some or all of the Community Improvements will be constructed and some or all of Parcel 3B will be incorporated into the Community Association.

“(b) Pursuant to a temporary easement contained in the First Amendment to Stipulation and Settlement Agreement, Good Pro has the right to move dirt from Parcel 2 onto Parcel 3A and Parcel 3B. Such moving of dirt shall be performed at the cost and expense of the Owner of Parcel 2, and shall be completed prior to the Wawa convenience store and gasoline service station opening for business. Upon the satisfactory completion of this work, such temporary easement shall terminate automatically, without the need for any further act or deed.

“(c) In consideration for its agreement to relinquish any interest in the ownership of Parcel 3B and the Association’s cooperation with respect to the approval of the Parcel 3B Project, Matrix agrees to pay the Community Association, within seven (7) days of the receipt of the final and unappealable Required Governmental Approvals for the Parcel 3B Project, the sum of Four Hundred Thousand Dollars (\$400,000.00) (the “Parcel 3B Payment”) to be applied pursuant to the Additional Development Agreement towards the

design and construction of such of the Community Improvements as the Community Association shall determine, and possible additional common improvements that the Community Association shall determine, including (but not limited to) additional street lights, a security surveillance system and a dog station (hereinafter collectively referred to as the “Additional Common Improvements”). In no event will Matrix be responsible for contributing more than the total of Four Hundred Thousand Dollars (\$400,000) towards the Additional Common Improvements in addition to Matrix’s pro-rata share of the Proposed Community Center, as will be defined in the Additional Development Agreement. Prior to the commencement of construction of any improvements on Parcel 3B, Matrix and the Community Association shall enter into an agreement (the “Additional Development Agreement”) which shall address (in addition to such matters as restrictions on leasing of Units; if, when and on what terms Parcel 3B will be included in the Community Association, completing the Amendment to Declaration of Easements, the specific Community Improvements and/or Additional Common Improvements that Matrix will provide, when they are to be provided, the amount of the design and construction costs of each that will be charged against the Parcel 3B Payment and the formula by which maintenance costs for the Additional Common Improvements shall be allocated between the Community Association, Matrix and/or a successor association created by Matrix with respect to Parcel 3B. In the event that Matrix and the Community Association do not enter into the Additional Development Agreement and Matrix receives final and unappealable Required Governmental Approvals for the Parcel 3B Project, the Parcel 3B Payment shall be paid to the Community Association and Matrix shall have no obligation to provide any Additional Common Improvements or make any other payments to the Community Association relating to the Additional Common Improvements.”

5. Requested Relief from the Township Zoning Ordinance.

A. Paragraph 12 of the Stipulation and Settlement Agreement is hereby amended

to add subparagraph (c), which shall read as follows:

“(c) In order to proceed with the development of Parcel 3B as contemplated in paragraph 6(a), and the construction of the Additional Common Improvements, Township and Zoning Hearing Board agree that Matrix shall be entitled to the following relief from the provisions of the Township Zoning Ordinance with respect to such development and construction:

“Parcel: 31-00-17347-13-6 – Parcel 3

“Owner: Matrix CBH, L.P.

“Relief for Parcel 3B:

“1) From Section 295-2 to allow a townhouse to have up to 8 attached single-family buildings.

“2) From Section 295-98 to allow the townhouse and community center use in the C1 Commercial District.

“3) From Section 295-221.F to allow for more than 120% of the maximum required parking for the townhouse and community center uses.

“4) From Section 295-251.B(2) to allow the required yard area as part of a subdivision or land development to include lands located in Zone One of the Riparian Corridor Conservation District.

“5) From Section 295-251.B(4) to allow utility transmission lines to be less than 35 feet from Zone One of the Riparian Corridor Conservation District or less than 60 feet from the top of the stream bank.

“6) To the extent needed, from Section 295-221.B (5) a regarding surface parking to be located to the rear of the principal building or to the side.

“7) Relief for Parcel 3A and B: From Section 295-106 regarding the required 10 foot buffer strip around the perimeter of the lot.

“8) Relief for Parcel 1: From Section 295-221.F to allow for more than 120% of the maximum required parking for the townhouses.”

“9) Such other and further relief as the Township may deem necessary.”

B. Paragraph 12 of the Stipulation and Settlement Agreement is hereby amended to add subparagraph (d) which shall read as follows:

“ In order to accommodate the road tapering (widening) on Limekiln Pike to the new entrance to the Project, the width of the buffer has been further reduced from 11.1 feet to 4.6 feet. Accordingly, the reference to 11.1 feet in subparagraph (b) of Section V of the Decision is hereby modified to read “4.6 feet”, as is depicted on the Road Tapering Plan attached hereto as Exhibit “G”.”

6. Successors and Assigns. Paragraph 18 of the Stipulation and Settlement Agreement is hereby amended in full as follows:

“18. Successors. This Agreement shall be binding upon and inure to the benefit of the parties hereto, the third-party beneficiaries hereof, and their respective

heirs, successors and assigns. This Agreement may be enforced by any party hereto and/or third-party beneficiary hereof.”

7. **Court Approval.** Upon execution of this Second Amendment by the parties hereto, this Second Amendment shall be submitted to the Court for approval and entry of a supplemental Order.

8. **Ratification of Prior Agreements.** Except as modified herein, the Stipulation and Settlement Agreement and First Amendment are hereby ratified and confirmed.

9. **Counterparts.** This Second Amendment may be signed in counterparts with the same force and effect as if all of the parties had executed the same original of this Second Amendment.

IN WITNESS WHEREOF, the parties hereto, and their respective counsel, have executed this Second Amendment to Stipulation and Settlement Agreement the day and year first above written.

WYNGATE DEVELOPMENT
HOMEOWNERS

Witness _____

By: _____
Name: Donna Powell

Witness _____

By: _____
Name: Robert Hilliard

FINEMAN KREKSTEIN & HARRIS, P.C.

By: _____
James A. Rosenstein, Esquire
Attorney for Wyngate Development
Homeowners

[SIGNATURES CONTINUED ON NEXT PAGE.]

GOOD PRO CHELTENHAM, L.P.
By: Pinegood Cheltenham GP, LLC, its
General Partner

Witness _____

By: _____
Bruce A. Goodman, Manager

FRIEDMAN, SCHUMAN, P.C.

By: _____
Peter S. Friedman, Esquire
Attorney for Good Pro Cheltenham, L.P.

By: _____
Michael Yanoff, Esquire
Attorney for Good Pro Cheltenham, L.P.

ZONING HEARING BOARD
OF CHELTENHAM TOWNSHIP

Witness _____

By: _____
_____ [Name & Title]

CAROL M. LAUCHMEN, P.C.

By: _____
Carol M. Lauchmen, Esquire
Solicitor to Zoning Hearing Board
of Cheltenham Township

CHELTENHAM TOWNSHIP

Witness _____

By: _____
Harvey Portner
Board of Commissioners President

WISLER PEARLSTINE, LLP

By: _____
Joseph M. Bagley, Esquire
Solicitor to Cheltenham Township

[SIGNATURES CONTINUED IN JOINDER ON NEXT PAGE.]

JOINDER

Intending to be legally bound, the undersigned Wyngate Community Association (on its behalf and on behalf of all its members) (the "Community Association"), Matrix, CBH, L.P. and The Fairways at Cedarbrook Hills, L.P., hereby agree and acknowledge that they are each third party beneficiaries to the foregoing Second Amendment to Stipulation and Settlement Agreement (the "Second Amendment to Agreement") to the extent described therein and in Exhibit "D" thereto; and also hereby agree to such provisions thereof as are respectively applicable to them. Effective as of the date that the contingencies set forth in Paragraph 11 of the Agreement are satisfied or waived, the Community Association shall assume and perform all of the responsibilities and obligations of Wyngate set forth therein, and Wyngate shall have no further rights or obligations under this Second Amendment to Agreement.

WYNGATE COMMUNITY ASSOCIATION

By: _____
_____, President

Attest: _____
_____, Secretary

MATRIX CBH, L.P.

By: Matrix/Ashbourne Management Corp.,
Its general partner

By: _____
Joseph S. Taylor, President

**THE FAIRWAYS AT CEDARBROOK HILLS,
L.P.**

By: Cedarbrook Fairways Development, LLC,
its general partner

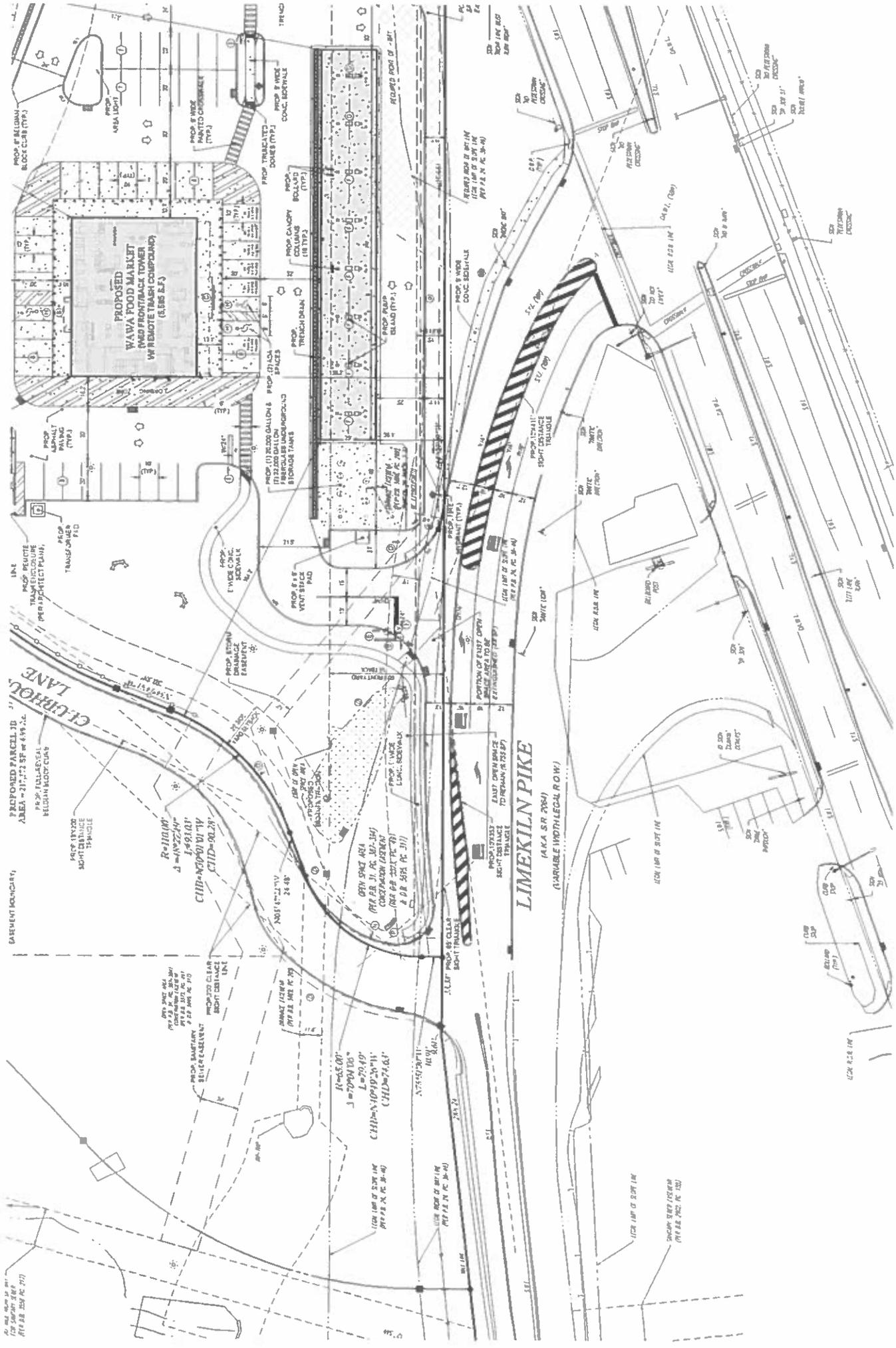
By: Taylor/Epstein Investment Fund,
LLC, its sole member

By: _____
Joseph S. Taylor, Member

EXHIBITS

EXHIBIT "F-1"

Parcel 3B Development Plan



PROPOSED PARCEL ID: AREA = 31,773 SF ± 419.26
 PROPOSED FULL-LEVEL BEGAN BLOCK CURB

PROPOSED WAWA FOOD MARKET (W/ REMOTE TRASH COMPACTOR)
 (S.E.S.F.)

PROPOSED TRASH COMPACTOR (S.E.S.F.)

PROPOSED 12" CONC. DRIVE AISLE (S.E.S.F.)

**TOWNSHIP OF CHELTENHAM
RESOLUTION NO. _____**

AN ORDINANCE AMENDING THE CHELTENHAM TOWNSHIP ZONING MAP TO CREATE THE "OFF-PREMISES ADVERTISING SIGN OVERLAY DISTRICT" TO REGULATE THE INSTALLATION AND OPERATION OF OFF-PREMISES ADVERTISING SIGNS OR BILLBOARDS IN CHELTENHAM TOWNSHIP; AND AMENDING THE CODIFIED ORDINANCES OF CHELTENHAM TOWNSHIP, CHAPTER 295 (ZONING) TO AMEND ARTICLE I (OBJECTIVES AND TERMINOLOGY), SECTION 2 (DEFINITIONS AND WORD USAGE) TO DELETE THE TERM "BILLBOARD" IN ITS ENTIRETY AND REPLACE WITH A NEW DEFINITION FOR "OFF-PREMISES ADVERTISING SIGNS OR BILLBOARDS"; AMEND ARTICLE XXV (SIGNS), SECTION 193 (DEFINITIONS) TO DELETE THE EXISTING DEFINITION OF "ADVERTISING SIGN" IN ITS ENTIRETY AND REPLACE IT WITH A NEW DEFINITION FOR "OFF-PREMISES ADVERTISING SIGNS OR BILLBOARDS"; AND ADD A NEW ARTICLE XXXVI ENTITLED "OFF-PREMISES ADVERTISING SIGN OVERLAY DISTRICT" SETTING FORTH THE PERMITTED HEIGHT AND LOCATION OF OFF-PREMISES ADVERTISING SIGNS OR BILLBOARDS; THE NUMBER OF SIGNS PERMITTED PER LOT; THE PERMITTED CONTENT FOR OFF-PREMISES ADVERTISING SIGNS OR BILLBOARDS; LIGHTING REGULATIONS; MINIMUM LOT SIZE REQUIREMENTS; AND MAINTENANCE REQUIREMENTS.

WHEREAS, the Township of Cheltenham, Montgomery County, Pennsylvania desires to amend the Cheltenham Township Zoning Map to create the "Off-Premises Advertising Sign Overlay District" to regulate the installation and operation of off-premises advertising signs or billboards in Cheltenham Township; amend the codified ordinances of Cheltenham Township, Chapter 295 (Zoning) to amend Article I (Objectives and Terminology), Section 2 (Definitions and Word Usage) to delete the term "Billboard" in its entirety and replace with a new definition for "Off-Premises Advertising Signs or Billboards"; and amend Article XXV (Signs), Section 193 (Definitions) to delete the existing definition of "Advertising Sign" in its entirety and replace it with a new definition for "Off-Premises Advertising Signs or Billboards"; and add a new Article XXXVI entitled "Off-Premises Advertising Sign Overlay District" setting forth the permitted height and location of off-premises advertising signs or billboards; the number of signs permitted per lot; the permitted content for off-premises advertising signs or billboards; lighting regulations; minimum lot size requirements; and maintenance requirements; and

WHEREAS, the Pennsylvania Municipalities Planning Code (MPC) requires municipalities to hold a public hearing in accordance with public notice prior to the consideration and adoption of an amendment to the Township's Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Township of Cheltenham, Montgomery County, Commonwealth of Pennsylvania that the Township Administration is authorized to advertise a public hearing for Wednesday, February 17, 2016, at 7:30 p.m. (prevailing time) at Curtis Hall, 1250 West Church Road, Wyncote, Pennsylvania, 19095 to consider and possibly vote to adopt an ordinance amending the Cheltenham Township Zoning Map to create the "Off-Premises Advertising Sign Overlay District" to regulate the installation and operation of off-premises advertising signs or billboards in Cheltenham Township; and amending the codified ordinances of Cheltenham Township, Chapter 295 (Zoning) to amend Article I (Objectives and Terminology), Section 2 (Definitions and Word Usage) to delete the term "Billboard" in its entirety and replace with a new definition for "Off-Premises Advertising Signs or Billboards"; amend Article XXV (Signs), Section 193 (Definitions) to delete the existing definition of "Advertising Sign" in its entirety and replace it with a new definition for "Off-Premises Advertising Signs or Billboards"; and add a new Article XXXVI entitled "Off-Premises Advertising Sign Overlay District" setting forth the permitted height and location of off-premises advertising signs or billboards; the number of signs permitted per lot; the permitted content for off-premises advertising signs or billboards; lighting regulations; minimum lot size requirements; and maintenance requirements.

BE IT FURTHER RESOLVED, that the advertisement shall appear in the *Times Chronicle* on Sunday, January 31, 2016, and Sunday, February 7, 2016.

I HEREBY CERTIFY that the foregoing resolution was adopted by the Board of Commissioners of the Township of Cheltenham, County of Montgomery, Commonwealth of Pennsylvania, at its public meeting held at Curtis Hall, 1250 West Church Road, Wyncote, Pennsylvania, 19095, under my hand and the Seal of the Township of Cheltenham, this sixteenth day of December, A.D., 2015, in the year of the Township of Cheltenham the one hundred sixteenth.

Resolved and adopted this 16th day of December, A.D., 2015.

ATTEST:

TOWNSHIP OF CHELTENHAM
BOARD OF COMMISSIONERS

Bryan T. Havir
Township Manager and Secretary

By: _____
Harvey Portner, President