

The Whitpain Township Planning Commission has scheduled a public hearing for May 12, 2009 at 8:00 P.M. at the Whitpain Township Building, 960 Wentz Road, Blue Bell, PA to consider enactment of the following ordinance. Persons with a disability who wish to attend the administrative hearing should contact David M. Camarda, ADA Coordinator at 610-277-2400. Copies of the proposed ordinance are available at the Township Administration Building during normal business hours of 8:30 A.M. to 4:30 P.M., Monday through Friday.

**BOARD OF SUPERVISORS
WHITPAIN TOWNSHIP**

MONTGOMERY COUNTY, PENNSYLVANIA

ORDINANCE NO. 4-224

"Age-Qualified Overlay District"

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE TOWNSHIP OF WHITPAIN, CHAPTER 160 (ZONING) TO ADOPT A NEW ARTICLE TO BE KNOWN AS "ARTICLE XXXII AGE-QUALIFIED OVERLAY DISTRICT" ESTABLISHING AN AGE-QUALIFIED OVERLAY DISTRICT IN THE R-1 RESIDENCE DISTRICT AND THE R-2 RESIDENCE DISTRICT AND REPEALING ANY ORDINANCES OR PORTIONS OF ANY ORDINANCES IN CONFLICT THEREWITH.

The Board of Supervisors of Whitpain Township does hereby **ENACT** and **ORDAIN**:

SECTION I. - Amendment to Code

The Codified Ordinances of Whitpain Township, Chapter 160 (Zoning) is hereby amended to add the following new article:

ARTICLE XXXII Age-Qualified Overlay District

§ 160-242. Overlay Concept; Conflicts

A. The Age-Qualified Overlay District shall be an overlay to the R-1 and R-2 Zoning Districts. As such, the provisions for the Age-Qualified Overlay District shall serve as a supplement to the underlying district provisions.

B. Where there is any conflict between the provisions or requirements of the Age-Qualified Overlay District and those of any underlying district, the more restrictive provision shall apply.

§ 160-243. Permitted Uses. In the Age-Qualified Overlay District the following uses and activities, and no others, are permitted:

A. Condominium units which are age-restricted in accordance with state and federal law, consisting of a building or series of buildings designed exclusively for multifamily dwelling purposes by three (3) or more families living independently of one another and requiring that:

(1) No more than four (4) persons shall occupy a dwelling on a permanent basis, at least one of whom shall be fifty-five (55) years of age or older. No persons under the age of nineteen (19) shall occupy a dwelling except during summer months or during holidays.

(2) Occupants if unrelated by blood or marriage shall be fifty-five (55) years of age or older.

(3) An under-aged resident who shall survive the death of an age qualified spouse shall be permitted to continue to occupy the dwelling, provided that the continued occupancy does not violate the Federal Fair Housing Act.

B. A clubhouse and/or fitness center limited to residents of the community with facilities limited to exercise rooms, game rooms, activity rooms, library, kitchen without cooking facilities and offices for the administration, maintenance and sale of dwelling units within the community.

C. Accessory uses to consist of gate or guard houses, walking paths and structures or uses ordinarily accessory to dwellings, such as decks, porches, greenhouses, swimming pools, cabanas, gazebos and sheds. With the exception of gate houses, guard houses, and trails, no accessory building or structure shall be located within a required perimeter setback and no accessory building or structure shall be located between the front of a building unit and street lines.

D. At the time of subdivision and land development, as a prerequisite to the recording of any approved final plan, the developer shall record a declaration against the entire tract, in a form acceptable to the Township, binding all properties and owners to the restriction which shall require the permanent residents of an individual dwelling unit within the Age-Qualified Overlay District to be age fifty-five (55) or older, and

which shall require that any residents of an individual dwelling unit within the Age-Qualified Overlay District under the age of nineteen (19) years old shall not reside in that dwelling unit except during summer months or during holidays.

§ 160-244. Development Regulations.

A. In the Age-Qualified Overlay District the following dimensional regulations shall apply:

(1) The site shall contain at least twenty (20) gross acres of land in common ownership.

(2) The area shall be adaptable to community development, being located in relation to major thoroughfares, streets, railroads, public transportation, shopping or other facilities and, as far as possible, shall have within or through it no major thoroughfare or other physical features which will tend to destroy the neighborhood or community cohesiveness.

(3) All buildings shall be served by a public sanitary sewage disposal system and public water supply. All utilities servicing the development shall be placed underground.

(4) The site shall abut, on some portion of its perimeter, land with a commercial or industrial zoning classification.

(5) The site shall contain at least one non-conforming commercial or industrial use, which shall be eliminated as part of the proposed redevelopment of the site.

(6) A minimum of seventy-five percent (75%) of the gross site area (including easements, roads and driveways) shall be set aside as open space and/or green area, which shall be offered for dedication to the Township or its assignee. In the event any such portions of open space and/or green area are not dedicated, the same shall be owned and maintained by the condominium association.

(7) Maximum density shall not exceed four and four-tenths (4.4) dwelling units per gross acre.

(8) All interior roads shall have a width of twenty-four feet (24'), shall not be offered for dedication and shall be maintained by the Condominium Association.

(9) Building setbacks on interior undedicated roadways or parking areas shall be a minimum of ten feet (10') measured from the curb line.

(10) No building shall contain more than sixteen (16) dwelling units. The maximum length of any building shall not exceed two hundred twenty feet (220'), and the maximum depth shall not exceed one hundred ten feet (110').

(11) Principal and accessory buildings shall not cover more than fifteen percent (15%) of the gross site area.

(12) Impervious coverage shall not exceed twenty-five percent (25%) of the gross site area.

(13) No building or structure shall be erected closer than fifty feet (50') to any property line and from the ultimate right-of-way of bordering existing public roads.

(14) No two buildings shall be closer than sixty feet (60') to one another at any point along the external walls.

(15) The maximum building height shall be thirty-five feet (35'), with not more than two (2) floors of residential occupancy.

(16) Provisions for walking trails, gardens and community gathering places shall be incorporated into the required open space.

(17) A minimum of one and one-half (1.5) off-street parking spaces shall be provided for each dwelling unit and such additional guest parking as may be deemed by the Board of Supervisors to be appropriate. At least fifty percent (50%) of required parking must be within a structure and below grade.

(18) The source of any exterior spotlighting or floodlights of buildings or grounds shall not be visible from off the premises.

(19) The developer shall be required, where possible, to preserve or incorporate natural features, such as woods, streams and open space areas, which add to the overall cohesive development of the district and overall Township development. A conservation easement of fifty feet (50') in width shall be provided along the non-street perimeters of the site, within which there shall be no disturbance of natural features except as may be required for utility installation and construction of trails.

(20) All recreational, service and parking areas shall be effectively screened from abutting lots or rights-of-way by a strip of planting not less than twenty feet (20') in width, such planting to consist of not less than fifty percent (50%) of evergreen material (existing or newly planted) scattered throughout the planting strip.

(21) All roof, parking, delivery-collection areas and traveling lanes shall be provided with stormwater management and collection systems as approved by the Township Engineer.

(22) A maximum of one sign identifying the name of the development owner and/or manager to not exceed sixteen (16) square feet on one face and thirty-two (32) square feet total area may be permitted at each regular permanent entrance serving the development. One sign may be provided for each separate building identifying the building, provided that the area of any one side of such sign shall not exceed eight (8) square feet.

(23) If the development of the Age-Qualified Overlay District community is to be carried out in stages, each stage shall be so planned that the foregoing requirements and the intent of this article shall be fully complied with at the completion of any stage. The initial stage of development shall comprise a total floor area of not less than twenty-five percent (25%) of the total area intended to be developed.

B. In the Age-Qualified Overlay District the following architectural regulations shall apply:

(1) The proposed development shall be constructed in accordance with an overall plan and shall be designed as a unified architectural unit with appropriate landscaping.

(2) Variations in rooflines shall be used to screen HVAC equipment and to provide interest and reduce the scale of buildings. Roofs should provide a variety of vertical dimensions. Multi-planed and intersecting rooflines are encouraged. Visible flat roofed designs are prohibited. Additionally, all roof types should have at least one of the following features:

(a) Overhanging eaves of at least two feet (2');

(b) Sloping roofs with an average slope of between three-to-one (3:1) and one-to-one (1:1) that do not exceed the average height of the supporting walls;

(c) Three (3) or more roof slope planes per building.

(3) The exterior building skin shall be composed of one dominant facing material and not more than two (2) additional materials. The dominant material shall comprise sixty percent (60%) or greater of each building elevation. Dominant exterior materials may include:

- [a] Wood.
- [b] Brick.
- [c] Stone or stone veneer (Cultured Stone or equivalent).
- [d] Concrete masonry unity (CMU). CMU allowed only as split face block or block molded with a textured surface.
- [e] Architectural pre-cast concrete panels.
- [f] Glass, warm and cool tones.
- [g] Stucco and synthetic stucco.

(4) Dominant exterior materials shall not include:

- [a] Aluminum siding.
- [b] Vinyl siding.
- [c] Smooth-faced CMU.
- [d] Tilt-up concrete panels.
- [e] Glass, highly reflective/mirrored.

(5) All ground mounted exposed HVAC units, other than utility equipment, shall be screened from view. This shall be accomplished through the use of masonry walls and landscaping.

(6) Schematic architectural plans and elevations of the proposed buildings shall be submitted with the application for land development approval.

(7) A plan depicting required open space amenities and trails shall be submitted with the application for land development approval.

SECTION II. - Severability

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION III. - Failure to Enforce not a Waiver

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

SECTION IV. - Effective Date

This Ordinance shall take effect and be in force from and after its approval as required by the law.

SECTION V. - Repealer

All other ordinances and resolutions or parts thereof insofar as they are inconsistent with this Ordinance are hereby repealed.

ORDAINED AND ENACTED by the Board of Supervisors of Whitpain Township, Montgomery County, Pennsylvania, this _____ day of _____, 2009.

WHITPAIN TOWNSHIP

By: _____
Joseph J. Palmer, Chairman,
Board of Supervisors

Attest: _____
Anthony F. Greco, Secretary

PUBLIC NOTICE

NOTICE is hereby given that the Board of Supervisors of Whitpain Township, at its public meeting on June 16, 2009 in the Township Building, 960 Wentz Road, P.O. Box 800, Blue Bell, Pennsylvania, will hold a public hearing on and consider for adoption (at a meeting following immediately following the hearing) an ordinance entitled "Age-Qualified Overlay District " amending the Codified Ordinances of Whitpain Township, Chapter 160 (Zoning) to adopt a new article to be know as "Article XXXII Age-Qualified Overlay District" establishing an Age-Qualified Overlay District in the R-1 Residence District and the R-2 Residence District and repealing any ordinances or portions of any ordinances in conflict therewith.

Copies of the full text of the proposed ordinance and Amendment to the Official Zoning Map are available for examination during normal business hours without charge at the offices of *The Times Herald*, 410 Markley Street, Norristown, Pennsylvania 19404, the Montgomery County Law Library, Court House, Norristown, Pennsylvania 19404 and the Whitpain Township Building, 960 Wentz Road, P.O. Box 800, Blue Bell, Pennsylvania 19422 where a copy of the proposed ordinance and Map Amendment may be obtained for a charge not greater than the cost thereof.

**JAMES J. GARRITY, ESQUIRE
WISLER, PEARLSTINE, TALONE,
CRAIG, GARRITY & POTASH, LLP**
Solicitors for Whitpain Township