

**ORDINANCE NO. 02-09**

**BIRMINGHAM TOWNSHIP**

**CHESTER COUNTY, PENNSYLVANIA**

**AN ORDINANCE ADOPTING THE OFFICIAL MAP OF BIRMINGHAM TOWNSHIP PURSUANT TO THE AUTHORITY GRANTED TO THE BOARD OF SUPERVISORS OF BIRMINGHAM TOWNSHIP IN ARTICLE IV, SECTION 401 OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE ("MPC"), 53 P.S. § 10401 ET SEQ.**

WHEREAS, in Resolution No. 020204, enacted on February 4, 2002, the Board of Supervisors of Birmingham Township (the "Board") adopted the Birmingham Township Comprehensive Plan, which was prepared by Norman Day Associates, now known as McCormick, Taylor & Associates, Inc. ("Norman Day Associates"); and

WHEREAS, pursuant to the authority in Article IV, Section 401 of the Pennsylvania Municipalities Planning Code ("MPC"), 53 P.S. § 10401, the Board directed Norman Day Associates to prepare an official map for the Township which was consistent with the Comprehensive Plan (the "Proposed Official Map"); and

WHEREAS, at its public meeting on May 7, 2002, the Birmingham Township Planning Commission voted to recommend approval of the Proposed Official Map, subject to various comments that are set forth in a letter to the Board of Supervisors dated June 3, 2002; and

WHEREAS, pursuant to Section 408(b) of the MPC, the Township sent a copy of the Proposed Official Map to the Chester County Planning Commission ("CCPC") for review and comment on April 2, 2002 and the CCPC issued its recommendations to the Board in two review letters dated June 20, 2002 and July 8, 2002; and

WHEREAS, pursuant to Section 408(c) of the MPC, the Township sent copies of the Proposed Official Map to the governing bodies of contiguous municipalities on April 3, 2002; and

WHEREAS, the Township received comments and recommendations from East Bradford Township in a Memorandum dated April 25, 2002 from Michael P. Lynch to Quina Nelling and from Pocopson Township in a letter dated May 21, 2002 to Quina Nelling; and

WHEREAS, pursuant to Section 402(b) of the MPC, the Board of Supervisors conducted a public hearing on September 24, 2002 where it considered the Proposed Official Map; and

WHEREAS, the public hearing on September 24, 2002 was advertised in the *Daily Local* on September 10, 2002 and September 17, 2002 as required by Section 402(b) of the MPC; and

WHEREAS, the Board conducted additional public hearings on the Proposed Official Map on October 18, 2002, November 18, 2002 and November 25, 2002, which were all announced at the close of the previous hearing; and

WHEREAS, the Board considered all of the review letters referenced above, as well as additional letters from residents in the Township, which were admitted into the record as Board exhibits; and

WHEREAS, based on the exhibits admitted at the public hearings, as well as the statements and comments from various residents who attended the public hearings, the Board voted to approve the Proposed Official Map with the following revisions:

(1) Delete the depiction of Proposed Steep Slope Easements from the Map and the Legend, which is identified as item "B".

(2) Retain the depiction of the existing stream corridors in the Township but revise item "A" on the Legend to read, "Existing Stream Corridors" and add the following note to the Map and Legend:

"The depiction of existing stream corridors is for informational purposes only. A special encroachment permit as referenced in Section 405 of the MPC shall not be required prior to building in areas of existing stream corridors. The provisions in the Birmingham Township Zoning Ordinance shall govern and regulate the improvements and structures which may be built in the stream corridors."

(3) Delete the depiction of the Proposed Trail Easement except for the existing trail which is located on the Sandy Hollow property owned by the Township and revise item "D" on the Legend to state, "Existing Public Trail".

WHEREAS, with the changes identified above, the Board voted unanimously to approve the Proposed Official Map on December 16, 2002;

NOW THEREFORE, BE IT ENACTED AND ORDAINED, as follows:

**SECTION 1. Purpose.** The Official Map is adopted in this Ordinance for the purpose of serving and promoting the public health, safety, convenience and general welfare; to facilitate adequate provisions of public streets and facilities; to improve traffic circulation; to provide for the recreational and open space needs of the community; and to facilitate the subdivision of land and use of land.

**SECTION 2. Provisions of the Official Map.** The Official Map, as adopted herein and as subsequently amended, includes two components: (i) the graphic representations on a map of the Township; and (ii) textual material which describes the components depicted on the map. The Official Map shall identify the location of the lines of existing and proposed public streets, water courses and public grounds, including widenings, narrowings, extensions, diminutions, openings or closing of the same. The Official Map, as adopted herein and as subsequently amended, shall depict and include the following components: Streams; Existing Stream Corridors; Proposed Road Widenings; Existing Trails; Existing Historic Overlay District; Existing Battlefield Conservation Easement; Proposed Battlefield Conservation Easement; and Existing Public Open Space and Public Use Areas.

**SECTION 3. Incorporation and Adoption of Official Map.** Pursuant to the authority granted to the Board in Section 401 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10401, the Board hereby adopts the Official Map which is attached hereto and titled, "Official Map of Birmingham Township, Chester County, Pennsylvania", including all notations, references and other data shown thereon, as the Official Map of Birmingham Township.

The Official Map shall be identified by the signatures of the Board, attested by the Birmingham Township's Secretary, using the following words "This is to certify that this is the Official Map of Birmingham Township, adopted by the Board on December 16, 2002, in Ordinance No. 02-09; together with the date of enactment of this Ordinance." The Official Map shall be kept on file with the Birmingham Township Secretary.

**SECTION 4. Effect of Approved Plats on Official Map.** After adoption of the Official Map, or part thereof, all streets, water courses and public grounds and any other elements identified in Section 2 above on final, recorded plats, which have been approved as provided by the MPC, shall be deemed amendments to the Official Map. No public hearing need be held or notice given, if the amendment of the Official Map is the result of the addition of a plat which has been approved as provided by the MPC.

**SECTION 5. Effect of Official Map on Mapped Streets, Water Courses and Public Grounds.** The adoption of any street, street lines or other public lands, pursuant to this Ordinance as part of the Official Map, shall not in and of itself, constitute or be deemed to constitute the opening or establishment of any street, or the taking or acceptance of any land, nor shall it obligate the Township to improve or maintain any such street or land. The adoption of proposed water courses or public grounds as part of the Official Map adopted herein, shall not, in and of itself, constitute or be deemed to constitute a taking or acceptance of a land by the Township.


**SECTION 6. Severability.** 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 or impair any of the remaining

provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

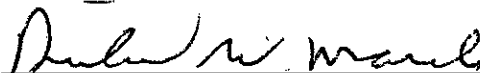
**SECTION 7. Effective Date.** This Ordinance shall be effective five (5) days following adoption, as by law provided.


ENACTED AND ORDAINED THIS 16<sup>th</sup> DAY OF DECEMBER, 2002.

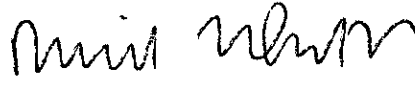
ATTEST:

  
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SECRETARY

BOARD OF SUPERVISORS  
BIRMINGHAM TOWNSHIP

By:   
\_\_\_\_\_  
Richard W. March, Chairman

By:   
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David S. Rathbun, Vice-Chairman

By:   
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David F. Bortner, Member