

TOWNSHIP OF LOWER MACUNGIE
Lehigh County, Pennsylvania

RESOLUTION NO. 2022-05
(Duly Adopted January 20, 2022)

RESOLUTION AUTHORIZING THE CONDEMNATION AND
ACQUISITION OF CERTAIN LAND WITHIN THE
TOWNSHIP OF LOWER MACUNGIE, LEHIGH COUNTY FOR
THE PURPOSE OF ESTABLISHING PUBLIC PARK LAND
AND PRESERVING OPEN SPACE AS SHOWN ON THE
OFFICIAL MAP OF LOWER MACUNGIE TOWNSHIP

WHEREAS, pursuant to the powers authorized in the Pennsylvania Municipalities Planning Code, 53 P.S. § 10401, *et seq.*, on June 16, 2016 the Lower Macungie Township Board of Commissioners passed Ordinance 2016-12 (*see* Township Code § 1-601, *et seq.*), thereby adopting the Official Map of Lower Macungie Township (“Official Map”); and

WHEREAS, as more fully stated in Township Code § 1-603, the purpose of the Official Map is, among other things, to protect and promote the public health, safety, convenience and general welfare, and to provide for the recreation, park and open space needs of the Township; and

WHEREAS, as more fully stated in Township Code § 1-603, the Township may depict on the Official Map, among other things, reservations of land for future use as conservation, recreation and open space, and other lands identified for other, future public use, which may be acquired by the Township, in fee, by easement or other interest; and

WHEREAS, since the initial adoption of the Official Map as stated above, the Township has amended the Official Map, with the current version adopted on July 18, 2019 pursuant to Ordinance 2019-09; and

WHEREAS, the Official Map depicts the following properties, privately owned, as “Lands to be Acquired for Parks:”

- 2525 Lower Macungie Road, Emmaus, PA 18049, being Lehigh County tax parcel identification number 548449206770.
- 2700 Lower Macungie Road, Emmaus, PA 18049, being Lehigh County tax parcel identification number 548458530739.
- 2740 Lower Macungie Road, Emmaus, PA 18049, being Lehigh County tax parcel identification number 548467782380.

WHEREAS, the Official Map depicts the following properties, privately owned, as “Lands to be Acquired for Greenway/Open Space:”

- 2250 Riverbend Road, Allentown, PA 18103, being Lehigh County tax parcel identification number 548459023659, and
- 2300 Riverbend Road, Allentown, PA 18103, being Lehigh County tax parcel identification number 548469002576.

WHEREAS, the above-listed “Lands to be Acquired for Parks” and “Lands to be Acquired for Greenway/Open Space” are collectively referred to hereinafter as the “Dorney Properties;” and

WHEREAS, the Dorney Properties identified above are depicted on the plan attached hereto as Exhibit “A;” and

WHEREAS, if the owner of property reserved on the Official Map for public grounds submits written notification to the Board of Commissioners announcing an intention to build, subdivide or otherwise develop the land or any part thereof covered by the reservation to construct a building, structure or other improvement for private use that requires land development approval, the Board of Commissioners must commence condemnation proceedings or otherwise acquire the land within one year from the date the Township first received such notice; and

WHEREAS, on March 4, 2021 the owners of the Dorney Properties submitted written notice to the Township of an intention to develop said properties; and

WHEREAS, consistent with the purpose and designations on the Official Map, as discussed herein and in the Township Code, the Township has determined that it is in the public interest and necessary for the benefit of the public to acquire the Dorney Properties for the present and future use and enjoyment of the Township’s citizens; and

NOW, THEREFORE, BE IT ADOPTED AND RESOLVED by the Board of Commissioners of the Township of Lower Macungie, Lehigh County, Pennsylvania, as follows:

1. The Township Solicitor is hereby directed to take all actions as may be required to acquire and effectuate the acquisition of the Dorney Properties identified herein and in the plan attached hereto and incorporated herein as Exhibit “A,” based on the estimated fair market value of such acquisitions, including: negotiating with the owners; accepting deeds of dedication for the conveyances (including but not limited to deeds in lieu of condemnation); filing of a Declaration of Taking and all necessary ancillary documents to acquire the property interests herein described pursuant to the power of eminent domain, if necessary; and, direct the payment of estimated just compensation, if any, in such amounts as may be determined to be appropriate.
2. The Township Solicitor and Township Manager are authorized and directed to take all such action as may be necessary and appropriate to implement this Resolution.
3. All resolutions or parts thereof inconsistent herewith are hereby repealed to the extent of any such inconsistency.
4. This Resolution shall become effective immediately upon adoption.

DULY ADOPTED this 20th day of January 2022, by the Board of Commissioners of Lower Macungie Township, in lawful session duly assembled.

LOWER MACUNGIE TOWNSHIP
BOARD OF COMMISSIONERS



Brian P. Higgins, President

Attest:



Renea Flexer, Secretary

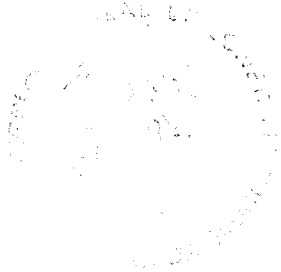
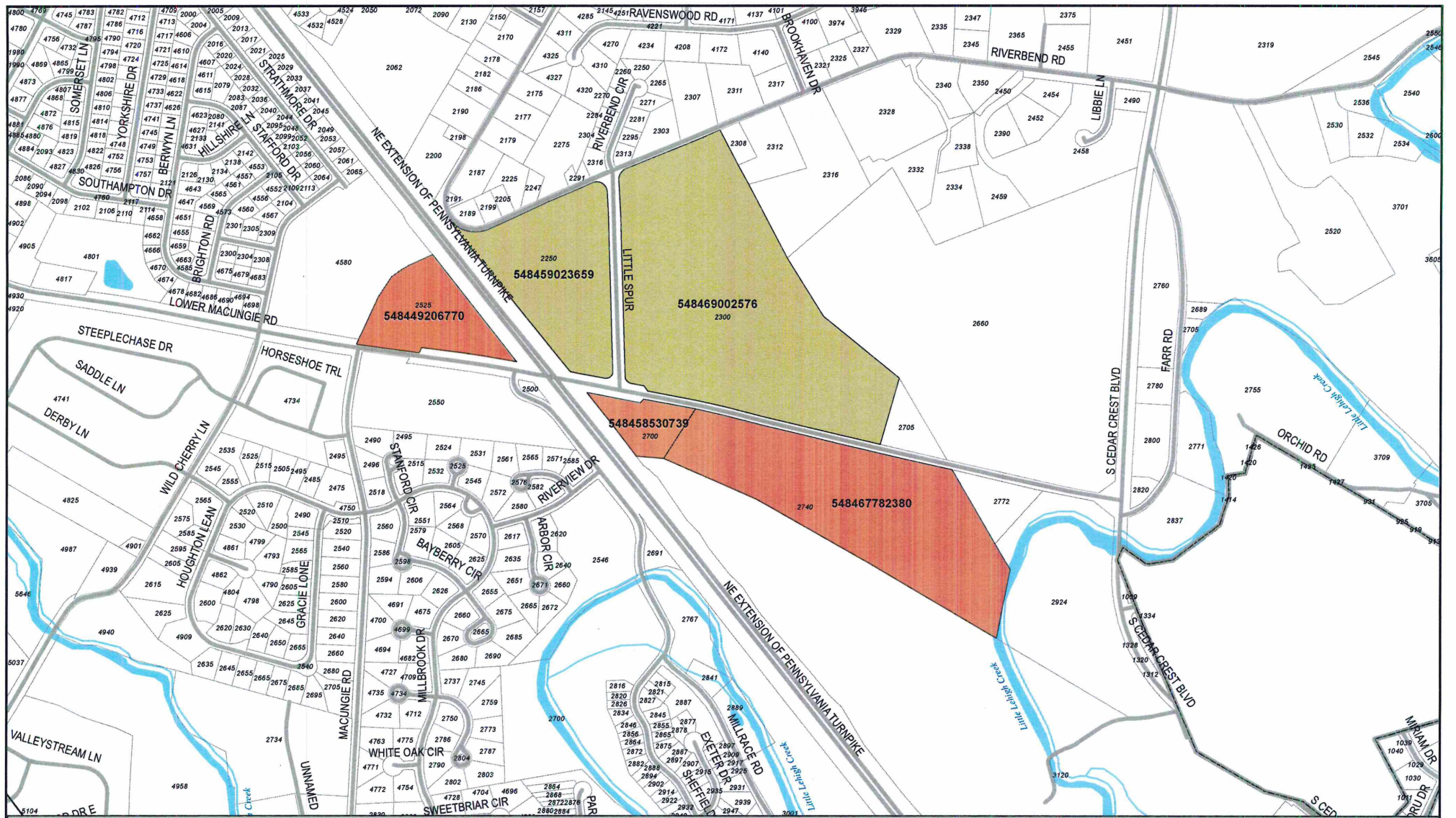
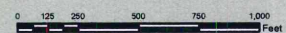


EXHIBIT “A”



**TOWNSHIP OF LOWER MACUNGIE
OFFICIAL MAP
PROPERTIES CONDEMNED**

- LEGEND**
- PROPERTIES CONDEMNED FOR OPEN SPACE
 - PROPERTIES CONDEMNED FOR PARKS




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 Created: 1/18/2022 Ref. No: 12505-55

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Solicitors for Condemnor
 Lower Macungie Township

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
 ACTION IN REM

IN RE: CONDEMNATION BY	:	No.
LOWER MACUNGIE TOWNSHIP OF	:	
FIVE PROPERTIES LOCATED WITHIN	:	PROCEEDING IN
LOWER MACUNGIE TOWNSHIP AT	:	EMINENT DOMAIN
2525 LOWER MACUNGIE ROAD (BEING LEHIGH	:	
COUNTY TAX PARCEL NO. 548449206770),	:	
2700 LOWER MACUNGIE ROAD (BEING LEHIGH	:	
COUNTY TAX PARCEL NO. 548458530739),	:	
2740 LOWER MACUNGIE ROAD (BEING LEHIGH	:	
COUNTY TAX PARCEL NO. 548467782380),	:	
2250 RIVERBEND ROAD (BEING LEHIGH	:	
COUNTY TAX PARCEL NO. 548459023659),	:	
2300 RIVERBEND ROAD (BEING LEHIGH	:	
COUNTY TAX PARCEL NO. 548469002576),	:	
FOR USE AS PUBLIC PARK LAND AND OPEN	:	
SPACE	:	

DECLARATION OF TAKING

Condemnor, Lower Macungie Township (“Condemnor” or “Township”), through its Solicitor, High Swartz, LLP, respectfully files this Declaration of Taking (“Declaration”) pursuant to the First Class Township Code, 53 P.S. § 56901, *et seq.*, and the Eminent Domain Code, 26 Pa.C.S. § 101, *et seq.*, and represents as follows:

1. Condemnor is Lower Macungie Township, with its principal offices located at 3400 Brookside Road, Macungie, PA 18062.
2. Condemnor is a township within the County of Lehigh, Commonwealth of Pennsylvania, organized and operating under the First Class Township Code, 53 P.S. § 55101, *et seq.*
3. Condemnor is authorized by the First Class Township Code, 53 P.S. § 56901, to acquire property by eminent domain, including entering upon, appropriating, taking, using and occupying private lands and property for public purposes, including but not limited to, land for a public works related function, the establishing of parks, playgrounds and recreation places, and all other purposes authorized by the act.
4. The condemnation set forth in this Declaration was authorized by a Resolution of the Board of Commissioners of Lower Macungie Township approved on January 20, 2022 at a duly advertised regular meeting of the Board, the record of which may be examined at the Lower Macungie Township Building, 3400 Brookside Road, Macungie, PA 18062. A true and correct copy of the January 20, 2022 Resolution is attached hereto as Exhibit “1” and incorporated herein by reference as if set forth in full.
5. The purpose of this condemnation is to acquire land for the establishment of public park land and open space for the use and enjoyment of the Township citizens.
6. Pursuant to the powers authorized under in the Pennsylvania Municipalities Planning Code, 53 P.S. § 10401, *et seq.*, on June 16, 2016 the Lower Macungie Township Board of Commissioners passed Township Ordinance 2016-12 (Township Code § 1-601, *et seq.*), thereby adopting the Official Map of Lower Macungie Township (“Official Map”), which was

subsequently amended, most recently on July 18, 2019, pursuant to Township Ordinance 2019-09.

7. Pursuant to the aforementioned statutory and Township Code provisions, Condemnor designated on the Official Map certain properties as “Lands to be Acquired for Parks” and “Lands to be Acquired for Greenway/Open Space.”

8. In accordance with the Township’s Official Map, and pursuant to the First Class Township Code and the Eminent Domain Code:

a. The property located at 2525 Lower Macungie Road, Emmaus, Lower Macungie Township, Lehigh County, PA 18049, being Lehigh County tax parcel identification number 548449206770, is hereby condemned and taken for the purpose of establishing a public park;

b. The property located at 2700 Lower Macungie Road, Emmaus, Lower Macungie Township, Lehigh County, PA 18049, being Lehigh County tax parcel identification number 548458530739, is hereby condemned and taken for the purpose of establishing a public park;

c. The property located at 2740 Lower Macungie Road, Emmaus, Lower Macungie Township, Lehigh County, PA 18049, being Lehigh County tax parcel identification number 548467782380, is hereby condemned and taken for the purpose of establishing a public park.

d. The property located at 2250 Riverbend Road, Allentown, Lower Macungie Township, Lehigh County, PA 18103, being Lehigh County tax parcel identification number 548459023659, is hereby condemned and taken for the purpose of establishing greenway and open space.

e. The property located at 2300 Riverbend Road, Allentown, Lower Macungie Township, Lehigh County, PA 18103, being Lehigh County tax parcel identification number 548469002576, is hereby condemned and taken for the purpose of establishing greenway and open space;

(the properties listed above in paragraphs 8.a. through 8.e. are collectively referred to hereinafter as the “Condemned Properties”).

9. A plan showing the Condemned Properties is being lodged for record as an attachment to a Notice of Filing of Declaration of Taking in the Office of the Recorder of Deeds of Lehigh County, Pennsylvania on the same day as the filing of this Declaration of Taking in accordance with Section 304 of the Eminent Domain Code, 26 Pa.C.S. § 304. A true and correct copy of the plan is attached hereto as Exhibit “2” and incorporated by reference as if set forth in full.

10. The nature of the title to the Condemned Properties hereby acquired is fee simple absolute.

11. A plan showing the Condemned Properties may be inspected at the address of Condemnor, Lower Macungie Township, 3400 Brookside Road, Macungie, PA 18062, by inquiring with the Office of the Township Secretary.

12. The payment of just compensation in this matter is secured by Condemnor’s power of taxation, and Condemnor pledges the funds raised or authorized by law to be raised by its power of taxation as security pursuant to Section 303 of the Eminent Domain Code, 26 Pa.C.S. § 303.

13. The information required by Section 305 of the Eminent Domain Code, 26 Pa.C.S. § 305, will be served upon all condemnees, mortgagees and lien holders of record, in the manner provided by that section.

WHEREFORE, Lower Macungie Township declares the properties identified herein as condemned and appropriated for the above-stated public purpose.

HIGH SWARTZ LLP

By: _____
David J. Brooman, Esquire
Mark R. Fischer, Jr., Esquire
Solicitors for Condemnor
Lower Macungie Township

Date: _____

DRAFT

VERIFICATION

I, Bruce Beitel, hereby verify that I am the Township Manager of Lower Macungie Township, that I am authorized to make this verification on behalf of the Township, and that the statements made in the foregoing Declaration of Taking are true and correct to the best of my knowledge, information and belief. I understand that the statements therein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

LOWER MACUNGIE TOWNSHIP

By: _____
Bruce Beitel
Township Manager

Date: _____