

**MIDDLESEX TOWNSHIP
WORKSHOP MEETING
February 24, 2023**

OFFICIALS PRESENT:	SUPERVISORS:	Chairman Donald S. Geistwhite, Jr. Vice-Chairman Steven Larson William H. Goodhart Keith O. Brenneman
	SOLICITOR:	
	DIRECTOR	
	OF PUBLIC SAFETY:	Chief Steve Kingsborough
	ZONING/CODES	
	ENFORCEMENT:	Mark D. Carpenter
	ASST. CODES/MS4	
	CO-ORDINATOR:	Gerald Steigleman
	ENGINEER:	Bud Grove
	ROADMASTER:	Zachary L. Zook
	MANAGER:	Eileen M. Gault

CALL TO ORDER: Chairman Geistwhite called the meeting to order at 7:30 a.m. in the Middlesex Township Municipal Building.

PUBLIC HEARING: On the request of CRG Real Estate to amend the Middlesex Township comprehensive Plan revising the text of the Land Use Action Plan and future Land Use Map by creating the Redevelopment Opportunity Overlay and amend the Middlesex Township Zoning Ordinance: Chairman Geistwhite announced that the first order of business is a Public Hearing in which he then turned the meeting over to the Township Solicitor Mr. Brenneman. Mr. Brenneman stated that this is the time and place for a scheduled public hearing on a proposed Resolution amending the Middlesex Township Comprehensive Plan as well as an Ordinance amending the Middlesex Township Zoning Map and providing a text amendment. The Comprehensive Plan is proposed to be amended by revising the text of the Land Use Action Plan by creating a Redevelopment Opportunity Overlay and the Future Land Use Map to identify the parcels proposed to be in that overlay. The Zoning Ordinance is proposed to be amended by amending the Zoning Map and have the Redevelopment Opportunity Overlay District apply to certain parcels and by amending the text to create a Redevelopment Opportunity Overlay District. Mr. Brenneman then gave a summary of the procedures followed prior to the hearing, including the dates of publication in the newspaper and the posting of approximately 75 signs pertaining to the hearing. As required by the PA Municipalities Planning Code (MPC), the proposed Resolution was transmitted to the Cumberland County Planning Commission, the governing bodies of all adjacent municipalities, the board of school directors at CV School District, the Cumberland County Commissioners, and the Middlesex Township Planning Commission. Mr. Brenneman then noted that Victor Stabile, a resident and former Supervisor of Middlesex Township, submitted a memorandum dated February 20, 2023, in opposition to the applicant's request and asked that the Middlesex Township Board of Supervisors include his memorandum as part of the public record. A copy of the memo has been provided to the counsel for the applicant, the stenographer present at the hearing and is attached as part of the minutes.

Mr. Brenneman stated that this would be a combined hearing for both the Comprehensive Plan amendment and the Zoning Ordinance amendment, at which time he turned the hearing over to the applicant's counsel Mr. Charles Courtney, McNees Wallace and Kurick, LLC. Mr. Courtney introduced himself and Mr. Chris Knarr, who were both present on behalf of the applicant CRG Real Estate. He stated that CRG is a national real estate developer for commercial, industrial, multi-family residential

and institutional projects and is the equitable owner of multiple sites in the area. Approximately, a year ago they came to the board with an overlay concept, rather than dealing with sites on a spot basis on the Harrisburg Pike, with the idea to look at it on a corridor basis. The Harrisburg Pike is overdue for redevelopment, and this would allow for the flexibility to do so. The idea is to remove zoning hurdles which is done with the establishment of a more flexible ordinance. Mr. Courtney reviewed the Comprehensive Plan amendments and the Zoning Ordinance amendments being proposed for the Redevelopment Opportunity Overlay District and stated that the proposed concept is not new and is a successful concept for promoting redevelopment.

The Supervisors then opened the hearing for public comment.

Dr. Stanley Tarka, 210 N. Old Stonehouse Road, spoke in opposition to the CRG Real Estate application for Planning and Zoning Amendments and urge the Supervisors to vote "NO" on both of the requests. He stated that in reviewing the application to consider an overlay to almost all the zoning districts throughout the Miracle Mile corridor, what has cleverly been included are warehousing and distribution facilities. This rezoning proposal if adopted would really amount to a repeal of all the zoning regulations. Nowhere in this application are there any cases provided that demonstrate how such a rezoning is going to actually stimulate economic development. Mr. Tarka then summarized Mr. Stabile's memorandum which is attached.

Mr. Courtney responded that he had read Mr. Stabile's memorandum and the part about obvious warehouse distribution is more of a sensational spin. Being focused on the Heckman/Sunday property which seems to be more of what the memo is targeted on is partially zoned CH (Commercial Highway) and already allows warehousing and distribution. Mr. Courtney stated that the Walter property next to it is zoned RF (Residential Farm) and has building material stored on it, was previously mined and is not a residential site. There had been lengthy discussions with the Township Planning Commission about this property and he worked closely with the Township on this ordinance to encourage redevelopment. This is not a repeal of the existing zoning but is establishing an overlay that encourages redevelopment of a corridor that needs redevelopment.

Russell Granberg, 8 N. Letort Drive, stated that he noticed that the overlay goes along the major artery of the pike and that the rest of the overlay area seems very specific. He was wondering with all the work that was put into this if CRG had plans to acquire other properties?

Mr. Courtney responded that at this point the only other area he thinks would be of interest is around the Diamond Motel.

Robert Bergamaschi, 10 Reed Drive, was present as a member for the Board of Directors of the Cumberland Valley Chapter of Trout Unlimited. He was accompanied by George Riley who is a resident of Middlesex Township. A letter has been submitted from the chapter for the record. The main concern is that the proposed changes will increase the threat to the waters of the Letort Spring Creek which is a valuable cold-water resource and trout reproduction area and is a very important part of this region's history. They encourage the Township to carefully consider the impact and any approvals. See the attached letter.

Mr. Courtney responded that this proposed ordinance does not change in any way the Townships Stormwater Management requirements. It doesn't change in any way stream protection, buffering or floodplain requirements. There is a slight increase in impervious coverage that is allowed. This is a corridor that was developed a long time ago and this ordinance would enhance the requirements.

Brad Filipovich, 12 Teaberry Drive, is opposed to this and stated that it is terrible for the Township. He is okay with changes along the Harrisburg Pike Corridor, but there seems to be an overreach to South Middlesex Road, Wolfs Bridge Road and other areas of the Township beyond Harrisburg Pike. Mr. Filipovich then stated that the 7:30 a.m. meeting reeked of secrecy and doesn't think there is any support for the change. Why would the Township allow CRG to dictate this change? Why approve this?

Township Solicitor responded to the 7:30 a.m. meeting comment stating that the Board has met for a 7:30 a.m. meeting longer than he has been a Solicitor for Middlesex Township which is over 25 years, on the last Friday of every month. If anyone wants to know what is going on in the Township, it is on the agenda and he encouraged them to call the Township. There is nothing secret about a 7:30 a.m. meeting that has been going on for over 40 years.

Mr. Courtney responded that every meeting that occurred with any agency of this Township has been public. This was proposed over a year ago and there were approximately 8-10 Planning Commission meetings. All the agendas were published, so there is nothing being done in secrecy. This corridor already allows warehousing and distribution. The overlay reaches back to other areas that already feed into this corridor. CRG would like to do some warehousing where it is already allowed and redevelop a corridor that needs this. This is not any developer dictating to the township since a lot of work went into this with Township Staff and Planning Commission.

Larry Claycomb, 141 N. Middlesex Road, mentioned that although he is on the Planning Commission, he is not representing them. He stated that Mr. Courtney is correct that a lot of land in the overlay is zoned for warehousing, however, there is a parcel of land zoned RF (Residential Farm) behind the old telephone building that is not zoned for warehousing and this overlay will allow for it. The corridor along Rt. 11 can and does need to be improved, however, Mr. Claycomb does not think this is the way to do it.

Mr. Courtney responded that they worked with the Planning Commission (PC) over 6 months and to the PC's credit many items were debated even the inclusion of the Residential Farm (RF) portion that CRG is an equitable owner of. They discussed what is happening on that land with material storage and that the property had been mined and is not a residential property. This is not a green corridor, it is an existing corridor and for the reason of redevelopment, the Township should adopt this ordinance.

Barbara McLaren, 224 N. Middlesex Road, stated that she isn't sure if the Supervisors live in the Township, but the people in the township will have to be the ones to live with this. Is there any way for the residents to have a vote on this?

Township Solicitor Mr. Brenneman, responded that the three (3) Supervisors have to live in the Township to be elected and represent the citizens of the Township so they are the ones to make the decision as best they can under these circumstances. What is important to one person may not be to another.

Joselyn Colyer, 454 Bernheisel Bridge Road, had questions regarding manufacturing, urban mixed usage and where in Hampden Township Mr. Courtney is referencing because traffic is awful. Ms. Colyer agrees that along the pike needs revitalized and could use stores and restaurants, however, the plan as presented is far over reaching.

Mr. Courtney responded that the Township already has an Urban Mixed Use Ordinance and the only reference to that was in connection with the modification provision that is in the draft and is the same concept that was included in the Mixed Use Ordinance. Hampden Township has an overlay along the

entire length of the Pike. We are talking about an already developed corridor with everything from truck stops to truck terminals. Under this draft truck stops wouldn't be permitted in the overlay. Nothing in this proposed ordinance undermines any of the protections that are already in the Township's Ordinances for the Letort.

Robert Bruce, 250 Old Stonehouse Road, stated that this is a great place to live and raise a family, except for the increase in traffic that you see along Rt. 11. He wanted to know why the Supervisors raised taxes and are wasting time on something like this. He urged the Supervisors to vote against this proposal.

Herbert Weigl, Jr., 13 N. Letort Dr., stated that he can't argue that redevelopment is needed along the Pike. The process to redevelop where the Burger King/Popeyes is, was long and messy but the properties are being developed. This proposal has an increase in the amount of impervious surface which would indicate large buildings and it appears as though local control is being given up, therefore, he recommended voting no against this proposal.

Scott Rohrer, 457 Wolf Bridge Road, stated that he is not opposed to redevelopment. The Township doesn't need this Overlay District and that once the change is made, there is no going back. He recommends the Supervisors vote no and not go with this change.

George Reilly, 7 Circle Drive, agrees that the pike needs to be revitalized, however, is concerned about the Letort Springs and that the overlay seems to be over reaching and recommends no to the plan.

Larry Claycomb, 141 N. Middlesex Road, stated that he believes that the two residential areas in this proposed Overlay District, on Mill Rd. and N. Middlesex Rd., should be excluded from Overlay District should it get approved.

Mr. Courtney responded that there were discussions at multiple meetings with the Planning Commission about whether to include those residential areas. The existing zoning isn't being changed so those properties will be conforming uses and are in a corridor that is largely CI (Commercial Industrial).

Vice-Chairman Larson asked if warehousing or distribution centers are being planned for the properties. Mr. Courtney mentioned that it is addressed in the application and that it was mentioned that they have two sites. One is the Heckman/Sunday property and would anticipate warehousing or distribution in which a portion of the property is already zoned for that. There is interest from manufacturing type of use. The Diamond Motel site, which would be retail, restaurant, or a new hotel.

Vice-Chairman Larson is not prepared to approve the proposal as it is. He would need more time to review the current Ordinance as well as the proposal.

Supervisor Goodhart, questioned whether the Supervisors would still have the power to stop a development with the way the proposal is written. Mr. Courtney responded that there would still be compliance requirements.

Chairman Geistwhite stated that the Supervisors have always kept the best interest of the residents in mind when making decisions and at times pertain to the safety of the residents. He then asked Mr. Knarr about the provisions for lighting. Mr. Knarr stated that the provisions for lighting stay the same, the only change was to the buffer requirements which became more strict.

Discussion and possible motion to approve Resolution No. 2023 – 8 revising the text of the Land Use Action Plan and Future Land Use Map creating the Redevelopment Opportunity Overlay: On the motion of Vice-Chairman Larson, seconded by Supervisor Goodhart, it was unanimously agreed to not approve Resolution No. 2023-8, as it stands.

Discussion and possible action to approve Ordinance No. 1 - 2023 amending the Zoning Ordinance Zoning Map and text providing for the Redevelopment Opportunity Overlay District: On the motion of Vice-Chairman Larson, seconded by Supervisor Goodhart, it was unanimously agreed to not approve Ordinance No. 1 - 2023, as it stands.

Chairman Geistwhite declared the hearing closed.

Public Comment: None.

Discussion and possible motion on the request of the Cumberland County Department of Public Safety to consider discounting or waive any municipal fees associated with the site improvements at 1101 Claremont Road: Mr. Carpenter reported that this request from the County pertains to the tower upgrade at the prison. On the motion of Chairman Geistwhite, seconded by Supervisor Goodhart, it was unanimously agreed to deny the request from the Cumberland County Department of Public Safety to discount or waive any municipal fees associated with site improvements at 1101 Claremont Road.

Discussion and possible motion to authorize the execution of the Subscription Renewal Agreement with IamResponding emergency response system: The Township Manager reported that this is the subscription that Chief Beam had requested 3-years ago. It has been successful, and he is requesting renewal of the 5-year subscription. On the motion of Chairman Geistwhite, seconded by Supervisor Goodhart, it was unanimously agreed to authorize the Township Manager to execute the Subscription Renewal Agreement for 5 years with IamResponding for the emergency response system.

Discussion and possible motion to accept the resignation of Beth Herbster from the Recreation Board term ending 01/01/2026 and to accept the request for re-appointment to the Recreation Board from Kimber Rohrer-Varner to fulfill the remaining term: On the motion of Chairman Geistwhite, seconded by Vice-Chairman Larson, it was unanimously agreed to accept the resignation of Beth Herbster from the Recreation Board term ending 01/01/2026 and to accept the request for re-appointment to the Recreation Board from Kimber Rohrer-Varner to fulfill the remaining term.

SUPERVISOR / STAFF COMMENTS: Mr. Carpenter mentioned that there is still a lot of development coming. Mr. Grove responded about the development at Pine Hill.

EXECUTIVE SESSION: The meeting was adjourned to Executive Session at 9:55 a.m. for a personnel matter. The meeting reconvened at 10:00 a.m.

On the motion of Chairman Geistwhite, seconded by Vice-Chairman Larson, it was unanimously agreed to hire Nathan C. Smith as a full-time Patrol Officer for a one-year probationary period effective immediately.

There being no further business, on the motion of Chairman Geistwhite, seconded by Vice-Chairman Larson, it was unanimously agreed to adjourn the meeting at 10:02 a.m.

MEMO

To: Middlesex Township Board of Supervisors
Donald S. Geistwhite, Jr., Chairman
Steven L. Larson, Vice-Chairman
William H. Goodhart

From: Victor P. Stabile

Cc: Mark Carpenter, Zoning Officer
Bud Grove, Township Engineer
Eileen Gault, Township Manager
Keith Brenneman, Township Solicitor

Date: February 20, 2023

Re: CRG Real Estate – Application for Planning and Zoning
Amendments, dated August 1, 2022 (Redevelopment
Opportunity Overlay District)

Gentlemen:

I am writing to you in my capacity as a resident of Middlesex Township. I recently became aware of the above referenced application for a zoning amendment that has been submitted as a proposed Redevelopment Opportunity Overlay District (hereinafter "Overlay District"). I am writing to request that each of you, who have the responsibility to protect the health, safety, and welfare of Middlesex Township residents, to vote **"NO"** on this proposed Overlay District. It seems that the obvious objective behind what is being proposed is to rezone all of the Miracle Mile districts to allow further development of **warehousing and distribution facilities**. I understand that consideration of this proposed amendment is scheduled for Friday, February 24 at your 7:30 AM workshop meeting. Regrettably, I have employment related travel and cannot make this meeting. I would therefore request that you give this memorandum your careful consideration.

Preliminary Considerations

I was disappointed to see that a zoning amendment as significant as that being proposed, is scheduled for a 7:30 AM workshop meeting. It was my recollection that the Board of Supervisors had abandoned long ago this practice of taking up public hearings at workshop meetings where very few are able to attend, since as you know, most people have work obligations. It was the Board's revised policy for many years to only schedule public hearings for its regular evening meeting each month when residents may make the meeting and can be heard. The prior practice of early morning meetings was always thought to be an attempt to pass controversial matters without public scrutiny. I would encourage you in the future to go back to hearing these matters at your regular evening monthly meetings.

What is being proposed is being labeled as an "overlay" district. My understanding is that zoning overlays are authorized under Section 605 of the Pennsylvania Municipalities Planning Code. It also is my understanding that a zoning overlay is superimposed over one or more other zoning districts in order to impose additional standards or regulations than those in the underlying district or districts. An overlay works in conjunction with the underlying zoning. Although what is being proposed by the applicant here is termed an "overlay", I believe in fact that it really is a wholesale request to rezone almost all of the township's IG, LI, CH, VC, and RS districts. I say this for several reasons. First, the proposed overlay area encompasses everything east of Wolfs Bridge Road past the PA Turnpike interchange and then to the Appalachian Trail in the east past the I81 interchange. It includes everything North and South between the Conodoguinet Creek and the Le Tort Spring Run and some for the entire width of its proposed west to east boundaries. Second, proposed Section 3.13 states that land in the overlay may be developed pursuant to either the overlay standards **or** the underlying zoning standards, **but not both**. Section 3.13(B)(2) provides that with the exception of conservation/open space and floodplain districts, the standards of Section 3.13 and Article XXIII would **supersede all general use (i.e., permitted uses) and bulk standards** in the underlying zoning districts. Section 3.13(B)(4) further provides in the event of a conflict between the standards of Article XXIII and the zoning ordinance, Article XXIII would prevail and apply. Article XXIII constitutes the core of this proposed amendment spanning pages 4 through 17 of the document. Simply stated, it appears this amendment, if adopted, is a zoning give-away for developers that will supplant and repeal all existing zoning, with very limited exceptions, in the underlying zoning districts affected by this proposal. This amendment would repeal

practically all of our zoning in all the underlying zoning districts in the Middlesex Miracle Mile corridor in favor of very liberal and loose standards, in particular, for warehousing and distribution. **This proposed overlay would not work in conjunction with existing zoning, it would operate to the great exclusion of existing zoning.**

The Supervisors should not lose sight of the breath of this proposed amendment. According to my review of the application, **it affects no less than 193 parcels in the underlying districts** in Middlesex Township encompassing almost all of the Township's IG, LI, CH, VC, and RS districts throughout the Miracle Mile corridor and beyond. Relatedly, if what is being proposed is in fact a rezoning, then I question whether the Township has complied with all the notice provisions for zoning amendments required under Section 609 of the MPC; specifically, that the owners of each affected parcel be provided the required notice of the proposed changes.

Now for what is really at issue. Counsel for the developer CRG credibly is well known for representing clients looking to develop warehousing and distribution centers. He has indicated that the applicant is the equitable owner of several tracts of land along the approximate 3.5 miles of the Harrisburg Pike, locally known as the "Miracle Mile" in Middlesex Township. I can only assume since the Miracle Mile in Middlesex Township is roughly only about a mile (as its name plainly suggests), that the area equitably owned extends beyond Middlesex. Page 1 of the proposed ordinance in its second "Whereas" clause indicates that the intent is overall enhancement along the Harrisburg Pike corridor around the convergence of major transportation corridors, I76 and I81. In light of this obvious clue, **what no doubt is the objective here is to ensure the inclusion of warehousing and distribution centers as permitted uses in this overlay district**, although one has to read through four prefatory pages of proposed permitted nonresidential uses before these are discovered. They can be found at Section 23.03(B)(2)(hh) of page 8 of this proposed ordinance. Although I have not been privy to first-hand discussions, I have inquired within the Township and it is believed that CRG has acquired or is looking to acquire properties between N. Middlesex Rd. and the Pennsylvania Turnpike in order to be able to develop 2+ million square feet of warehousing/distribution in that area. I have not attempted to further verify this information. If in fact this is the driving intent behind this proposed amendment, then no doubt what would be required is the wholesale rezoning of our entire Miracle Mile districts, precisely what this amendment proposes.

Among the principal objectives found at page 1 of this proposed amendment, and repeated elsewhere throughout the document, are to create and apply the Overlay District to help encourage reinvestment, revitalization, overall enhancement of land along the Miracle Mile corridor, as well as to encourage innovation and promote flexibility, economy, and ingenuity and development in this area. If what is being proposed genuinely is to serve as an economic development plan for Middlesex Township, then I believe a number of critical preliminary criteria have not been considered, thus rendering this economic plan without focus. For instance, the amendment paints with a broad brush and permits almost every kind of industrial and commercial use in the Miracle Mile corridor. Middlesex always has been challenged to control development to mitigate traffic impacts and environmental degradation of air and water in this part of our community, in particular. You do not need an economic development plan to attract more warehousing and distribution in Middlesex or any other municipality in Central Pennsylvania. One would expect that if a well-considered economic plan was to be adopted that areas that are blighted or in need of rehabilitation would be specifically identified and alternative uses would be encouraged that would help improve our tax base with the least amount of environmental and/or traffic impacts to the community. This proposal would request that you move forward without first determining the traffic and other impacts that would result from this significant rezoning. Traffic in the Miracle Mile corridor already is failing with the number of trucks that pass through our Township being almost beyond comprehension. If in fact there are particular parcels in the Miracle Mile corridor that should be revitalized or rehabilitated, I suggest that can be done with more laser focused amendments to encourage appropriate development of those parcels. What is being suggested here in all likelihood will introduce a significant amount more of warehousing and distribution with no guarantee that parcels that need revitalization or rehabilitation will be addressed. Nor is there any guarantee that parcels that should be revitalized or rehabilitated would not be razed to provide for additional warehouses or distribution centers.

I also question why this Overlay District would be considered at the present time when the Township is currently in the process of working with consultants to revise our Township land development and zoning ordinances. If this proposed amendment were to be adopted now, plans for warehousing or distribution submitted before our consultants can complete work on new ordinances, would not affect a prior plan, as it is my understanding that pre-existing plans filed with the Township would be grandfathered and not subject to revised zoning ordinances. In essence, any attempt to develop a new comprehensive zoning ordinance would be an act of futility with respect to

practically all the zoning districts that comprise the Miracle Mile corridor if this Overlay District would be adopted at this time.

A Brief Recap of Middlesex Township's History with Trucking/Warehouses/Distribution.

Given Middlesex's long and painful history in its attempts to manage and control warehousing and distribution within the Township, it is especially trying for the residents of Middlesex to be confronted with the possibility that all prior work and sacrifice could evaporate and be for nothing with the adoption of this proposed Overlay District amendment.

When our neighboring municipalities were first attempting to address this problem, Middlesex already had suffered through expensive litigation and numerous battles between developers and its residents. In the late 90's or early 2000's, Middlesex realized that given the unique attraction of Central Pennsylvania for warehousing and distribution, that these uses could not be stopped, but the best that could be done was to attempt to strike a balance whereby an acceptable level of these uses could be developed in our communities while at the same time preserving quality-of-life for people who live and work in Central Pennsylvania. You will recall that we took the lead in creating the Central Cumberland County Task Force on Regional Development with approximately seven of our neighboring municipalities to attempt to address this issue on a much wider scale for the benefit of all. To that end, common sense recommendations were developed whereby maximum amounts of warehousing and distribution development were calculated consistent with acceptable levels of traffic service to accommodate that balance. Regrettably, most of the participating municipalities never adopted those recommendations and as we can see today, warehousing and distribution has exploded and has consumed untold hundreds of valuable acres in our communities for these singular uses producing the adverse impacts that we had hoped to avoid.

Middlesex however stood apart from the rest of our neighboring municipalities. We decided early on that we would allow and work with these uses within permitted zoning districts in our municipality, but when those areas were exhausted, we would not permit any further development of warehousing and distribution. Our objective was to assess the maximum amount of warehousing and distribution that could be developed along the Miracle Mile corridor in order to prohibit development beyond those limits which were deemed detrimental to our community. We did so and worked with our

trucking and distribution residents believing that it was in our collective interest that they succeed in those areas that we identified for those uses.

When Middlesex was confronted with the possibility of 2 million+ square feet of warehousing and distribution to be developed on our southern border with South Middleton Township in the early 2000's, we actively participated in opposing that development because of the unacceptable impacts that development would have on our shared water aquifers, the impact to air quality, and increased demands that inevitably would fall upon our police department. Yours truly represented Middlesex in those proceedings, *pro bono*. Middlesex spent in excess of \$20,000 in costs to be able to do appropriate testing and to hire qualified experts to provide testimony in that case. Using specialized air-quality testing equipment, air samples were taken on the Miracle Mile and then those measures were extrapolated based upon the amount of development being proposed in South Middleton Township. My recollection is that the result of that testing revealed that the amount of cancer-causing diesel particles, known as PM 2.5, that would be emitted from trucks using those facilities, would exceed acceptable federal limits by some three or four-fold if the development was approved. If the proposed amendment to create the Overlay District is adopted, Middlesex may face the very real possibility that 2 million+ square feet of warehousing and/or distribution in the Miracle Mile corridor would produce just as bad or worse results than that empirically tested some 20 years ago. Anyone living in our community can tell that conditions have not gotten better; they have gotten worse. As supervisors, you owe your most careful and serious consideration to considering development of these uses that can seriously affect the health of our community. The proposal should be rejected.

It also should not be forgotten that because of petroleum runoff from the Miracle Mile corridor, Middlesex lost a potentially valuable well head in the area of the turnpike. Now consider that Silver Spring Township, our immediate neighbor to the east, is in the process of approving 2+ million square feet of warehousing and/or distribution on the Hempt farm tract. One can reasonably assume that before you even consider impacts from the proposed Overlay District that the traffic and air impacts from development in Silver Spring will also affect Middlesex given that trucks will travel west through Middlesex to access I81 or the Turnpike, unless they travel east to access I81 from the Route 114 corridor. We all breathe the same air. While municipal boundaries separate us, these environmental impacts do not recognize those boundaries.

Some Specific Comments on the Proposed Overlay District Amendment.

Section 3.13(A), as referenced earlier, provides that the affected districts in the proposed Overlay District may only be developed under the standards of the overlay **or** the underlying zoning districts, **but not both**. This means that if an applicant chooses to apply under the proposed overlay ordinance, only the zoning provisions in that overlay ordinance will apply to a proposed development to the exclusion of all other existing zoning requirements, with very limited exception. To be certain, Section 3.13(B)(2) emphasizes that the standards under that section and its Article XXIII shall supersede all general use and bulk area standards in the underlying zoning district. As will be discussed, the proposed overlay essentially allows a developer to request and do whatever they desire unmoored to any other zoning restrictions.

There is some irony to the stated objective of this proposed overlay that is intended to encourage reinvestment, revitalization, and enhancement along the Miracle Mile corridor and ostensibly promote flexibility, economy, and ingenuity in development. Among the almost unlimited commercial and industrial nonresidential uses being proposed as permitted uses in the Overlay District are agricultural, food and kindred product manufacturing, canvas products from campus manufacturing, swimming pools and archery ranges, electronics assembly, forestry, furniture manufacturing, funeral homes, heating and electric power generation plants, dressmaking and millinery, pharmaceutical manufacturing, research laboratories, textile mill and apparel product manufacturing, wind energy facilities, and woodworking and handicraft product manufacturing. **See** Section 23.03(B)(2). I am hard-pressed to appreciate how any of these uses are recognized as economic stimulators and/or whether it is even practical to propose some of these uses in the Miracle Mile corridor. Instead, this shotgun approach to identifying permitted uses appears simply to be an attempt to give the illusion that the affected corridor may be enriched with almost unlimited commercial and/or industrial uses. The illusion however, is that practically all of the permitted uses, save for warehousing and distribution, will probably never come into being, as warehousing and distribution are the singular uses that will be attracted first and most. And the more you develop as a warehousing and distribution center, less are the chances that the Township will attract other diversified uses to the districts.

Special attention should be paid to Section 23.04 regarding area and dimensional standards. Section 23.04 provides that no minimum lot area is required, minimum lot width is 50 feet, maximum impervious coverage is 70%, maximum building coverage is 50%, each side and rear lot setback for nonresidential uses adjoining residential use or districts is only 25 feet, and maximum height is 65 feet. These area and dimensional standards would apply to every proposed permitted use in the proposed overlay and to every underlying zoning district in the Miracle Mile corridor. Most, if not all of these standards, revise and liberalize existing zoning standards.

Currently, Section 14.61(A) through (J) to Article XIV of our zoning ordinance, as amended by Ordinances 4-2015, 1-2016 and 2-2018, relating to supplementary regulations, provide some of the standards specific for warehousing and distribution centers. Subsection A provides for a minimum lot area of 10 acres and a minimum of 125 feet of road frontage on an arterial or collector road. Subsection B provides that parking, staging and loading/unloading areas, and buildings be no closer than 500 feet from a residential use or district. Subdivision C provides if a subject property is less than 1,320 from a highway interchange, maximum lot coverage shall be 50% and maximum impervious coverage shall be 65%. Subsection D provides that there be a 200 foot deep buffer strip along any lot line that adjoins a residential use or district. Subsection E provides that screen buffers shall be provide in all buffer strips and that stormwater management is permitted in the strips. Subsection F provides that height be permitted to increase by 1 foot for every 2 feet which the building exceeds minimum requirements up to a maximum height of 50 feet. The proposed overlay at Section 23.03(B)(2)(hh) that allows warehousing and distribution centers as permitted uses in the overlay includes only Sections 14.61(G) through (J) of our current zoning ordinance. All of our current standards under Section 14.61(A) through (F) are eliminated from the overlay that permits warehousing and distribution. The area and dimensional standards proposed under Section 23.04 as well are at significant variance from existing standards at Sections 14.61(A) through (F), i.e. no minimum lot area, minimum lot width of 50 feet, maximum impervious at 70%, and maximum building coverage at 50% which may be increased to 60% as per Section 23.06(A)(c)(1). The proposed amendment also eliminate the specific zoning standards adopted in 2016 that address sound levels and refrigerated facilities found at Section 14.61(K).

Adding to the almost complete elimination of current zoning standards relating to warehousing and distribution under Section 14.61 are several very generous provisions provided for under the overlay for these particular uses.

For example, while Section 23.04(F) provides a maximum height of 65 feet, 15 feet more than our current ordinance, buried within proposed Section 23.06, relating to site and building design criteria, is subsection A(c)(2) at page 14 that provides that as an incentive, a developer may be permitted to increase the height limitation by an additional 20 feet. This would allow buildings of 85 feet. Section 23.06(A)(4)(3) at page 13 also provides that if a developer provides evidence that requirements impede the flow of tractor-trailers that would deliver goods to a lot, a developer can widen the cartway to the minimum width it would take to allow truck deliveries to occur safely on the lot. There is no real standard here. Also worth noting is Section 23.03 relating to use standards that provide at Subsection (A)(1) and (2) at pages 4-5, that more than one principal use or structure or accessory use permitted in the overlay will be permitted to occupy the same building or lot and that combinations of residential or nonresidential uses permitted in the overlay also shall be permitted to occupy the same building or lot. Uses shall be permitted to be mixed both on the horizontal and vertical planes. It appears this very liberal provision would allow every type of use and accessory use and multiple uses on every parcel in every underlying zoning district in the Overlay District.

Surface area water runoff also is a serious problem given the intensity of petroleum products in the corridor. This is especially so given the unfortunate circumstance that the Miracle Mile corridor is bordered by the Conodoguinet Creek and the Le Tort Spring Run, the latter of which has been rated as having waters of exceptional water quality. The proposed amendment, that would apply to all underlying districts, provides for a whopping 70% of impervious coverage, whereas current zoning only permits 60% in the CH district. Can anyone reasonably doubt that increasing impervious coverage on land immediately adjacent to these waterways will not put these water resources at greater environmental risk?

Notably absent and as alarming from the proposed amendment are any lighting standards. Our current zoning ordinance 12-2008 contains many and very specific criteria for lighting. Current light pollution from the Miracle Mile corridor is a huge and continuing problem and at times creates a public nuisance. Middlesex is supposed to be a rural residential township. The encroachment of light pollution that can be seen from almost anywhere in our township has had a very deleterious effect on our rural character. Compliance and enforcement in this area is a constant problem for the Township and never ceases. Without these standards, development or redevelopment under the

overlay will subject us to significant degradation of our night sky and rural character.

It also should not escape your attention that among the permitted uses in all underlying districts in this overlay are "personal wireless service facilities", i.e. cell towers. I recall the early battles we had with developers when this use first was coming into vogue and very few municipalities in our area had zoning specific to that use. Our current zoning, as per ordinance 98-2, singularly addresses this as a special exception permitted only in the IG district in a comprehensive fashion. It appears the proposed overlay would eliminate our current zoning entirely and would permit cell towers without any zoning restrictions in all underlying districts in the Miracle Mile corridor.

Finally, I note what appears to be a very curious provision, at least to me, at the very end of this proposed amendment at Section 23.07 at page 16, relating to modification of standards. It provides that the supervisors may, by condition use approval, authorize the modification of any overlay standards under Article XXIII or any other dimensional design related standards that impact the layout and design of the use or development to encourage innovative design. In my opinion, this final catchall provision appears to relieve any developer of the necessity to seek a zoning variance for any use or dimensional modifications sought in the Overlay District simply by having the supervisors provide for this as a conditional use approval. An applicant for a variance must meet a very high burden of proof. This provision would eliminate that level of proof and moreover, side-step the zoning hearing board process that statutorily is charged with hearing variance requests. This provision leaves the Township wide-open to everything and anything proposed in the Overlay District further removing any permitted use from zoning restrictions.

Conclusion

I have attempted to provide substantive comments to this proposed Overlay District amendment based upon my existing knowledge of zoning, planning, and the history of Middlesex Township in dealing with warehousing and distribution. I have not attempted to conduct exhaustive legal research, since I believe what is apparent on the face of this proposal (to allow additional warehousing and distribution) provides more than sufficient reason to reject the proposal. The proposed redevelopment opportunity overlay amendment will effectively destroy any planning or zoning within the Township that was accomplished over the past 20+ years to manage and control the Miracle Mile

corridor. The proposal is a wholesale rezoning and give-away for almost every type of commercial or industrial use that would be permitted in the corridor. It contains precious little by way of zoning standards and works to the exclusion of most all current zoning for every zoning district located in the Miracle Mile corridor. In all likelihood, it appears that what the applicant is hoping to do is to provide for as few zoning standards as possible in order to develop as much warehousing and distribution as possible in the Miracle Mile corridor. As an economic development tool, the proposal lacks focus and is unnecessary to address specific parcels in the corridor that deserve revitalization or redevelopment attention. Accepting this proposed amendment now would eviscerate any future zoning and planning currently underway in the Township. Moreover, the adverse environmental and traffic impacts may greatly exacerbate already unmanageable and unacceptable impacts in our community. On behalf of myself as a resident of this Township, and I would venture to say, on behalf of practically all people in Middlesex Township, I would urge you, the supervisors, to reject this proposed amendment in the interest of protecting our resident's health, safety, and welfare and look instead, to promoting other types of development that may actually diversify and improve our Township. Thank you.



CUMBERLAND VALLEY CHAPTER
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February 23, 2023

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Zoe Metro
Justin Pittman
Neil Sunday

Middlesex Township Planning Commission,

Cumberland Valley Trout Unlimited (CVTU) is aware that Middlesex Township is seeking public comments on a proposed resolution amending the Comprehensive Plan and Future Land Use Map and a proposed ordinance amending the Middlesex Zoning Ordinance. CVTU is concerned that the proposed changes will increase the threat to the waters of the Letort Spring Creek, a valuable cold water resource and trout reproductive area, as well as an important part of our region's history.

CVTU encourages the township to carefully consider impacts to the Letort Spring Creek as part of any plan approval. The Letort is a limestone stream noted for its pure, spring-fed water and wild brown trout fishery. The PA Department of Environmental Protection has designated sections of the Letort as an Exceptional Value Waterway and a High Quality Cold Water Fishery.

In particular, the proposed impervious coverage limit increase to 70%, when coupled with increased development of open land, will lead to increased stormwater runoff, pollution and siltation of the Letort. The most crucial aspect of any development and revitalization effort is the proper management of stormwater runoff. With new construction comes more impervious surfaces and more runoff.

If the proposed plan is adopted, CVTU encourages the township to ensure specific requirements related to stormwater management are included in permit approvals to development and construction activities, specifically:

PA DEP Minimum Control Measure #4: Construction Stormwater

PA DEP Minimum Control Measure #5: Post-Construction Stormwater

If development and construction activities take place, CVTU encourages the township to require erosion control principles for properties that border the Letort. Examples include:

Planting of native grasses and vegetation

Silt fencing

Tree planting to assist with erosion control and benefit to riparian habitat

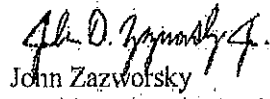
Gravel parking areas versus asphalt or concrete

CVTU objects to any zoning changes that would reduce the open space areas adjacent to the Letort Spring Run. If the proposed changes are approved, then the Proposed Land Use Map should be revised to include a wide riparian buffer area of undeveloped land on both sides of the Letort to protect the stream.

The CVTU chapter consists of approximately 600 members, the large majority of which reside in Cumberland County. We're more than just a fishing organization--we restore streams through habitat improvement projects and conduct seminars on water quality and fisheries management. We also work to educate the next generation about the importance of clean water and wild trout. The work we accomplish is equally important to all those who enjoy outdoor sports or the beauty of nature. Protecting important cold water resources like the Letort is central to our mission and we urge Middlesex Township to give the highest consideration to the concerns noted in this letter.

Please don't hesitate to contact me if you have any questions regarding CVTU's concerns and recommendations on this issue.

Sincerely,



John Zazworsky

President, Cumberland Valley Chapter, Trout Unlimited
(717) 805-8234 (mobile) cvtu052@gmail.com

Cc:

PA Fish and Boat Commission, Bureau of Fisheries, Director, Kristopher Kuhn
PA Department of Environmental Protection, Waterways & Wetlands Southcentral
Region Office, Civil Engineer Hydraulic Manager, Edward Muzic
Letort Regional Authority, Chairman, Andy Parker
Central Pennsylvania Conservancy, Executive Director, Jason Beale
Pennsylvania Trout Unlimited, President, Lenny Lichvar
Trout Unlimited, Mid-Atlantic Organizer, Emily Baldauff