

ORDINANCE NO. 6-93

AN ORDINANCE OF THE BOARD OF TOWNSHIP SUPERVISORS IN AND FOR THE TOWNSHIP OF MIDDLESEX, CUMBERLAND COUNTY, PENNSYLVANIA, AMENDING ORDINANCE NO. 3-89 ("MIDDLESEX TOWNSHIP ZONING ORDINANCE") IN THE FOLLOWING RESPECTS: DELETING THE ORIGINAL ARTICLE XVI RELATING TO PLANNED RESIDENTIAL DEVELOPMENTS AND SUBSTITUTING THEREFOR A NEW AND REVISED ARTICLE XVI REGULATING PLANNED RESIDENTIAL DEVELOPMENTS; AMENDING ARTICLE VI ("RF-RESIDENTIAL FARM DISTRICTS") TO PERMIT PLANNED RESIDENTIAL DEVELOPMENTS WITHIN SAID RF-RESIDENTIAL FARM DISTRICTS.

BE IT HEREBY ENACTED AND ORDAINED, and it is hereby enacted and ordained by the Board of Township Supervisors in and for the Township of Middlesex, Cumberland County, Pennsylvania, as follows:

SECTION 1. Section 6.02 of Article VI of Ordinance No. 3-89, "Middlesex Township Zoning Ordinance" enacted on June 30, 1989, as subsequently amended, is hereby amended by adding thereto as a permitted use the following subsection:

I. Planned Residential Developments in accordance with the requirements, limitations and provisions of Article VI hereinbelow.

SECTION 2. Article XVI, Planned Residential Developments, as originally contained in Ordinance No. 3-89, "Middlesex Township Zoning Ordinance" enacted on June 30, 1989, is hereby deleted and repealed.

SECTION 3. The following new Article XVI, Planned Residential Developments, is hereby added to said Ordinance No. 3-89, "Middlesex Township Zoning Ordinance" and substituted for the deleted and repealed Article XVI:

## ARTICLE XVI

### PLANNED RESIDENTIAL DEVELOPMENTS

#### SECTION 16.01 - STATEMENT OF INTENT.

In addition to the general goals listed in the statements of Purpose (Section 102) and the Community Development Objectives (Section 103), it is the purpose of the Planned Residential Development District to:

- A. To assure that the provisions of the Middlesex Township Zoning Ordinance which are concerned in part with the uniform treatment of dwelling type, bulk, density, intensity and open space within each zoning district, shall not be applied in a manner that would distort the objectives of said zoning ordinance.
- B. To encourage innovations in residential and nonresidential development and renewal so that the growing demand for housing and other development may be met by a greater variety in type, design and layout of dwellings and other buildings and structures and by the conservation and more efficient use of open space ancillary to said dwellings and uses.
- C. To provide greater opportunities for better housing and recreation in the Township.
- D. To encourage a more efficient use of land and of public services and to reflect changes in the technology of land development so that economies secured may inure to the benefit those who need homes and for other uses.
- E. To encourage a more flexible land development which will respect and conserve natural resources such as streams, lakes, floodplains, groundwater, wetlands, wooded areas, steeply-sloped areas and areas of unusual beauty or importance to the natural ecosystem.
- F. In aid of the foregoing purposes, to provide a procedure which can relate the type, design, and layout of residential and nonresidential development to the particular site and the particular demand for housing existing at the time of development in a manner consistent with the preservation of property values within existing residential and nonresidential areas, and to assure that the increased flexibility of regulations over land development authorized herein is carried out under such administrative standards and procedures as shall encourage the disposition of proposals for land development without undue delay.

## SECTION 16.02 - ELIGIBILITY REQUIREMENTS

No application for a Planned Residential Development shall be considered or approved by the Board of Supervisors unless the following initial requirements are met:

- A. The proposed Planned Residential District shall consist of one or more contiguous parcels of land under single ownership.
- B. The proposed Planned Residential Development shall contain a minimum of two-hundred and fifty (250) acres of land and be situated entirely within a single then existing Zoning District as defined by the Middlesex Township Zoning Ordinance. This area, upon final approval hereunder, shall become the Planned Residential Development District.
- C. The proposed Planned Residential Development District shall be served only by this Township's municipal water supply system and municipal sanitary sewer system as operated by the Middlesex Township Municipal Authority. The applicant shall provide proof to the Board of Township Supervisors that capacity for both utilities is available for it's proposed Planned Residential Development.
- D. The proposed Planned Residential Development District shall be permitted to locate only in the R-S Residential-Suburban Zoning District and in the R-F, Residential-Farm Zoning District.
- 1. A Planned Residential Development which is to be located in a (R-F) Residential-Farm Zoning District, and which meets the additional criteria established in this Article, shall be permitted to use the (R-S) Residential-Suburban Zoning District standards and provisions of Article VIII of the Zoning Ordinance in order to satisfy Site Design Requirements of Section 16.05 of Article XVI of the Middlesex Township Zoning Ordinance.
- E. A minimum of forty percentum (40%) of the gross tract area of the proposed Planned Residential Development shall be devoted to common open space, but under no circumstances shall the common open space be less than one-hundred fifty (150) acres.
- F. The maximum gross residential density for the total Planned Residential Development Tract shall not exceed two (2) dwelling units per acre.
- G. The proposed Planned Residential Development shall be generally consistent with the Comprehensive Plan for the Township of Middlesex.

## SECTION 16.03 - LAND USE CONTROL AND DENSITY REQUIREMENTS

A. Uses permitted in a Planned Residential Development shall be limited to:

1. Residential Uses:

- a. Single family detached dwellings;
- b. Single-family semi-detached dwellings;
- c. Two-family detached dwellings;
- d. Single-family attached dwellings (townhouses);
- e. Multiple-family dwellings.

2. Non-residential Uses:

The following non-residential, commercial uses may be permitted in a planned residential development only to the extent that they are designed and intended primarily to serve residents of the Planned Residential Development and are compatible and harmoniously incorporated into the unitary design of the Planned Residential Development:

Commercial uses of the local convenience retail and service type located to serve primarily the residents of the planned residential development. Examples of such uses are grocery stores, drug stores, personal service establishments, medical and dental clinics and other uses of a similar character.

3. Open Space:

Common open space for recreational uses including, but not limited to, parks, play fields, picnic areas, hiking and horseback riding trails, tennis courts, golf courses, swimming, boating and fishing, or for agricultural purposes.

B. Mix of Housing Types

A Planned Residential Development shall have a mix of dwelling units consisting of the following types within the following proportions:

1. Single Family Detached - A minimum of forty percent (40%) and maximum of seventy-five percent (75%) of all proposed dwelling units.
2. Single Family Semi-Detached and Two Family - A maximum of thirty-five percent (35%) of all proposed dwelling units.
3. Single-family Attached (townhouses) - A maximum of thirty-five percent (35%) of all proposed dwelling units.
4. Multiple -family dwellings - A maximum of ten percent (10%) of all proposed dwelling units.

The remainder of the housing stock shall be left to the discretion of the applicant. The requirements of this section may be waived by the Board of Township Supervisors upon the applicant successfully demonstrating that the required housing type(s) are not then presently marketable. Upon granting a waiver, the required percentage of the remaining housing types shall be increased proportionately.

#### C. Land Use Density

The Planned Residential Development shall be regulated by the following standards relative to land use density.

1. Maximum gross residential density for the total Planned Residential Development Tract shall be not exceed two (2) dwelling units per acre.
2. The percentage of the Planned Residential Development Tract to be devoted to common open space shall be not less than 150 acres, or forty percent (40%) of the total tract, whichever is greater.
3. The percentage of the Planned Residential Development Tract which is to be covered by buildings, roads, parking areas, and other impervious cover shall not exceed twenty percent (20%) of the gross area of the total tract.
4. The area for non-residential, commercial use of the Planned Residential Development Tract shall not exceed three percent (3%) of the gross tract area.
5. The maximum impervious area permitted on any lot for residential, non-residential or commercial use shall be fifty percent (50%) of the lot area.

#### SECTION 16.04 - SITE ANALYSIS

The site design of a proposed Planned Residential Development must demonstrate to the satisfaction of the Board of Township Supervisors that both the opportunities provided and the constraints imposed by natural features and community facilities have been considered.

##### A. Natural Features Analysis:

In order to determine which specific areas of the tract are suitable for development and which areas should be preserved in their natural state, an analysis of natural features shall be required. The following considerations must be included in the analysis and site planning responsive to these findings:

1. Topography

An analysis of the terrain of the site before and after construction including mapping of elevation and delineation of slope areas according to the following categories: 0-8%, 8-15%, 15-25%, and over 25% slope. The finished topography of the site shall adequately facilitate the proposed development without excessive earth moving, tree clearance or destruction of natural amenities. The applicant shall demonstrate the means whereby soil erosion and sedimentation will be prevented during construction.

2. Drainage

An analysis of natural drainage patterns and water resources including streams, natural drainage swales, ponds or lakes, wetlands and marsh areas, floodplain areas, permanent and seasonal high water table areas shall be included. Natural drainage features such as lakes, ponds and streams shall be preserved and incorporated into the final design of the development wherever possible and desirable. Where adequate surface drainage is not possible by grading alone, a supplementary drainage system shall be required.

3. Geology

An analysis of the characteristics of rock formations underlying the site including the delineation of aquifers (particularly those locally subject to pollution and with low groundwater yields), shallow depth-to-bedrock areas, and areas in which rock formations are unstable.

4. Soils

An analysis of soil types present on the site including delineation of prime agricultural soils, aquifer recharge soils, unstable soils, soils most susceptible to erosion, and soils unsuitable for development. The analysis of soils shall be based on the County Soil Survey of the Soil Conservation Service.

5. Vegetation

An analysis of tree and plant cover on the site shall be required. Dominant tree species should be identified with individual trees having a caliper of six (6) inches or more preserved. The applicant shall identify the location of mature trees, and the means whereby these trees shall be protected during construction. Vegetation removal should be held to a minimum so as to preserve the natural species of plant life on the tract. The location of trees and other plant cover should be considered when planning open space, location of buildings, underground services, walks and paths, paved areas and finished grade levels.

B. Community Impact Analysis

An analysis of the potential effects and impacts of the Planned Residential Development upon the following community facilities will be required:

1. Transportation and surrounding roadway system;

2. Water supply;
3. Sewage disposal;
4. Public utilities, such as electricity, gas, telephone, cable television.
5. Solid waste disposal;
6. Police and fire protection;
7. School facilities and school district budget;
8. Recreation;
9. Township revenue and expenses.

Specific contents and procedures for preparing the required impact analysis shall be in accordance with the Middlesex Township Subdivision and Land Development Ordinance.

The required analyses shall be taken into consideration by the Board of Township Supervisors as part of its review for tentative approval. The analyses may, at the discretion of the Board of Township Supervisors, form the basis of required conditions for plan approval. The Board of Township Supervisors may require modification of site design when the plan has not adequately addressed these natural features and community facilities considerations.

#### SECTION 16.05 - SITE DESIGN REQUIREMENTS

##### A. Residential Uses.

1. All dwellings shall be designed with regard to topography, elevation and other natural features of the tract pursuant Section 16.04. The effects of wind patterns and solar orientation shall be considered when designing dwelling locations.
2. Front yard setbacks as specified within Article VIII of the Middlesex Township Zoning Ordinance, R-S Residential Suburban Zoning District, shall prevail. No specific side or rear yard is established; subject, however, to the review and approval of the Board of Township Supervisors.
3. Building setbacks and minimum distances between buildings may be varied in order to create interesting architecture in the layout and character of housing, but shall, in all cases, comply with the requirements of this Ordinance.

4. Dwelling unit structures shall be located and arranged so as to promote privacy for residents within the Planned Residential Development and maintain privacy for residents adjacent to the Planned Residential Development. Structures shall be located within the development so that there will be no adverse impact upon other structures such as excluding natural light or invading the privacy of adjacent structures.
5. Dwelling unit structures shall be located and sited so as to promote pedestrian and visual access to common open space wherever possible. Routes for vehicular and pedestrian access and parking areas shall be convenient without creating nuisances or detracting from the privacy of residents.
6. Dwellings shall be arranged in clusters so as to reduce the amount of improvements required to support residences, thereby minimizing development costs, and to provide immediate access to common open space.
7. The minimum lot area and minimum lot frontage of single family dwelling lots established within the development shall not be less than two-thirds (66.6%) of the normal minimum lot area of a single family detached dwelling in the R-S Residential Suburban District having public water and public sewer. However, in no case shall a single family lot be created having a lot width of less than fifty (50) feet at the building line and a lot frontage of less than thirty (30) feet at the right-of-way (property) line.
8. The maximum gross density for each dwelling type shall not exceed the following:

|                                |                       |
|--------------------------------|-----------------------|
| a. Single Family Detached      | 5 Dwelling units/acre |
| b. Single Family Semi-Detached | 6 Dwelling units/acre |
| c. Two Family                  | 6 Dwelling units/acre |
| d. Single Family Attached      | 6 Dwelling units/acre |
| e. Multiple Family             | 8 Dwelling units/acre |
9. There shall be an open space around the perimeter of the Planned Residential Development. Not more than fifty percentum (50%) of all structures to be constructed adjacent to the perimeter of said development shall be located no closer than one hundred (100) feet from the perimeter boundary line of the development, and the remaining fifty percentum (50%) of structures shall not be constructed closer than two hundred (200) feet from the perimeter boundary line of the Planned Residential Development.

10. Dwelling units and other structures located along the perimeter of the tract shall be designed so as to be harmonious with adjacent areas outside the Planned Residential Development.
11. No structure shall be located within seventy-five (75) feet of the right-of-way of an arterial or collector street. All structures shall be screened from arterial and collector streets by combinations of walls, landscape berms, vegetative plantings and/or fences.
12. The following additional requirements shall apply:
  - a. No structure shall be located within twenty-five (25) feet from a street line or a parking area.
  - b. No structure shall be located within twenty (20) feet from any other structure.
  - c. There shall be a minimum of one hundred fifty (150) feet between sections of different dwelling types. The different sections shall be screened from each other by combinations of walls, landscape berms, vegetative plantings and/or fences.
  - d. Multiple-family dwellings shall contain not more than eight (8) dwelling units in any one structure. The maximum length of multiple-family structures shall be one-hundred forty (140) feet, unless unique design is incorporated using such features as varied setbacks and roof lines. Article XIV, Section 14.38 of this ordinance shall apply, subject, however, to the review and approval of the Board of Township Supervisors.

B. Non-Residential, Commercial Uses

1. All non-residential, commercial uses shall be located in a single area of the Planned Residential Development Tract, not closer than two-hundred (200) feet from the nearest lot line of a residential use and shall be screened from the Residential sections of the development.
2. All non-residential, commercial uses shall be located with direct access to either a collector or arterial street.
3. Signs for non-residential, commercial uses are permitted, subject to the following restrictions:
  - a. No sign shall be visible from any dwelling unit constructed in the Planned Residential Development. All signs shall conform to Article XIV, Section 14.16 of this Ordinance, except that all signs shall conform to one-fourth (25%) of the dimensional requirements, length, width, and area, for signs in Article XIV, Section 14.16 B of this Ordinance.

b. A single ground-pole sign for the non-residential center is permitted. Such sign shall be limited to a height of six (6) feet and shall otherwise conform to one-fourth (25%) of the dimensional requirements for ground-pole signs in Article XIV, Section 14.16 B. 3. of this Ordinance.

c. Wall signs in accordance with Article XIV, Section 14.16 B. 2. of this Ordinance shall be permitted on a structure for individual use and shall otherwise conform to one-fourth (25%) of the dimensional requirements for wall signs in Section 14.16 B. 2. of this Ordinance.

d. Off-Premises Advertising Signs are not permitted.

e. Temporary Signs, fixed or mobile, are not permitted.

f. All other requirements of Section 14.16 of this Ordinance shall apply.

4. All non-residential, commercial uses shall be architecturally compatible with residential structures.

5. Parking facilities shall be designed solely for the intended use and shall be physically separated from other parking areas in the Planned Residential Development. Article XIV, Sections 14.10 and 14.11 of this Ordinance shall apply. Visual screening shall be provided between non-residential parking areas and residential areas. Lighting shall be of the low-intensity type and shall be shielded from the view of all surrounding streets and lots, Article XIV, Section 14.18 C.9. of this Ordinance shall apply.

6. All non-residential, commercial structures shall conform to the setback requirements established for residential structures in Section 16.05 A. above.

C. Common Open Space

1. The location, shape, size and character of the common open space should take into consideration the natural features and physical characteristics of the site as identified in Section 16.04.

2. Whenever possible, common open space shall be designed as a contiguous area between residential areas, with pedestrian and visual access available to all residents of the Planned Residential Development.

3. Significant natural features such as woodland areas, steep " slopes, floodplain areas, large trees, natural water courses and bodies of water, rock outcroppings, and scenic views shall be incorporated into the common open space whenever possible, provided, however, that not less than twenty-five

percent (25%) of the total common open space shall be suitable and designed for use as an active recreation area.

4. Areas designated for common open space shall contain no structures other than those directly related to outdoor recreational uses and structures associated with utilities.
5. All areas designated as common open space must be made subject to a deed restriction or agreement in a form acceptable to the Board of Township Supervisors and duly recorded in the Office of the Recorder of Deeds Office of Cumberland County prohibiting subdivision of such open space.
- D. Streets, Sewer and Water Facilities, Storm Drainage and Soil Erosion Control, Curbs and Gutters and Sidewalks
  1. Streets, sewer, water, storm drainage and soil erosion control facilities, curbs, gutters and sidewalks shall be designed and improved in accordance with the requirements and standards set forth in the Subdivision and Land Development Ordinance. Performance and maintenance guarantees and subsequent release of guarantees for all required improvements shall be in accordance with the requirements and procedures of said Subdivision and Land Development Ordinance.
- E. Lighting and Other Utilities
  1. All streets, off-street parking areas, and areas of intensive pedestrian use shall be adequately lighted. All such lighting shall be designed and located so as to direct light away from the view of all surrounding adjacent residences and lots. Lighting shall be of the low-intensity type. Article XIV, Section 14.18 C.9 of this Ordinance shall apply.
  2. Telephone, electric, gas and cable television utilities shall be installed underground.

#### SECTION 16.06 - OWNERSHIP, MAINTENANCE AND PRESERVATION OF COMMON OPEN SPACE

- A. The developer shall provide for and establish an organization (or organizations) for the ownership, maintenance, and preservation of common open space. Such organization(s) shall not be dissolved nor shall it(they) dispose of the common open space, by sale or otherwise except to an organization(s) conceived and established to own and maintain the common open space, subject to the covenants and restrictions of the original Development Plan approval and Development Agreement.

- B. Homeowners' Association(s)  
Whenever a developer or owner proposes to provide land or structures for the benefit of only particular home owners of a project such as usable open space and active play areas, a Homeowners' Association(s) shall be established in accordance with the following provisions:
1. The Homeowners' Association(s) shall be established as an incorporated, organization(s) operating under recorded land agreements through which each lot owner (and any succeeding owner) is automatically a member, and each lot is automatically subject to a charge for a proportionate share of the expenses of the organization's activities. Specific provisions shall be established which define completely all membership requirements of all non-lot owners in the event rental units are included in the project.
  2. The Homeowners' Association Declaration of Covenants, Conditions, and Restrictions shall as a minimum establish the following:
    - a. Property Rights including the owner's easements of enjoyment and delegation of use.
    - b. Membership and Voting Rights including any distinction between membership classes.
  3. If the developer or owner proposes to construct the project over a period of separate stages, the Homeowners' Association(s) shall also be staged consistent with the development time schedule.
  4. The Board of Township Supervisors reserves the right to review and approve the articles of incorporation and all Declarations of Covenants, Conditions, and Restrictions of the Homeowners' Association(s) as the same relate to the responsibility for on-going ownership and maintenance.
- C. In the event that an organization established to own and maintain common open space, or any successor organization, shall at any time after establishment of the Planned Residential Development fail to maintain the common open space in reasonable order and condition in accordance with the development plan, the Board of Township Supervisors may serve written notice upon such organization or upon the residents and owners of the Planned Residential Development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be corrected within thirty (30) days thereof, and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice. At such hearing the Board of Township Supervisors may modify the terms of the original notice as

to the deficiencies and may give an extension of time within which they shall be corrected.

- D. If the deficiencies set forth in the original notice or in the modifications thereof shall not be corrected within said period of thirty (30) days or any extension thereof, the Board of Township Supervisors, in order to preserve the taxable values of the properties within the Planned Residential Development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one (1) year. Said maintenance shall not constitute a taking of said common open space, nor vest in the public any rights to use the same.
- E. Before the expiration of said year of Township maintenance, the Board of Township Supervisor shall, upon its initiative or upon the request of the organization heretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents of the Planned Residential Development, to be held by the Board of Township Supervisors, at which hearing such organization or the residents of the Planned Residential Development shall show cause why such maintenance by the Township shall not, at the option of the Township, continue for a succeeding year. If the Board of Township Supervisors shall determine that such organization is ready and able to maintain said common open space in reasonable condition, the Township shall cease to maintain said common open space at the end of said year. If the Board of Township Supervisors shall determine that such organization is not ready and able to maintain said common open space in a reasonable condition, the Board may, in its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.
- F. The decision of the Board of Township Supervisors shall be subject to appeal to court in the same manner, and within the same time limitation, as is provided for zoning appeals in this Ordinance.
- G. The cost of such maintenance by the Township shall be assessed ratably against the properties within the Planned Residential Development that have a right of enjoyment of the common open space and shall become a lien on said properties. The Board of Township Supervisors shall have the right to file a lien upon the properties within the Planned Residential Development for collection of such cost and to otherwise stand in the stead of the organization in enforcing its collection remedies.

#### SECTION 16.07 - DEVELOPMENT IN STAGES

A Planned Residential Development may be developed in stages if the following standards are met:

- A. The location and approximate time of construction of each stage are clearly marked on the development plan.
- B. All stages are completed sequentially and are consistent with the development plan and are of such size and location that they constitute economically sound units of development.
- C. At least seventy percent (70%) of the dwelling units in a given stage shall be completed before any non-residential, commercial development planned for that stage shall be constructed.
- D. Subsequent stages are completed consistent with the development plan and are of such size and location that they constitute economically sound units of development.

#### SECTION 16.08 - APPLICATION FOR TENTATIVE APPROVAL

- A. The application for tentative approval shall be submitted by or on behalf of the landowner to the Township Secretary in accordance with the Preliminary Plan requirements of the Township Subdivision and Land Development Ordinance.
- B. The Board of Township Supervisors shall refer the application to the Middlesex Township Planning Commission and the Cumberland County Planning Commission for study and recommendation. The County and Township planning agencies shall be required to report their recommendations to the Board of Township Supervisors within thirty (30) days or forfeit the right to review.
- C. The application for tentative approval shall be in addition to the plans and supporting data required in the Subdivision and Land Development Ordinance and This Article, and shall contain the following:
  - 1. The proposed land use areas within the Planned Residential Development, distinguishing between types of residential, non-residential, and open space uses.
  - 2. The land use density of each land use within the Planned Residential Development and the average gross residential density for the entire Planned Residential Development.
  - 3. The use and the approximate height, bulk, and location of buildings and other structures.
  - 4. The feasibility of disposition of storm water.

5. The existence of municipal water and sanitary sewage capacities as required under Section 16.02.C.
6. The location, function, size, ownership, and manner of maintenance of the common open space.
7. The substance of covenants, grants of easements, or other restrictions to be imposed upon the use of land, buildings and structures including proposed grants and/or easements for common open space areas and public utilities, and the legal form thereof.
8. The provisions for parking of vehicles and the location and width of proposed streets and public ways.
9. Any required modifications in the existing land use regulations otherwise applicable to the subject property.
10. The feasibility of proposals for energy conservation and the effective utilization of renewable energy sources.
11. In the case of plans which call for development over a period of years, a schedule showing the proposed time within which applications for final approval of all sections of the Planned Residential Development are intended to be filed and the approximate number of dwelling units, types of dwelling units, and gross residential density for each type of dwelling unit planned for each stage. The schedule shall be updated annually on the anniversary of its approval, until the development is completed.
12. Site plans shall be drawn at a scale no smaller than one inch (1") to fifty feet (50'0").
13. Copies of the site plan and supporting data included in the tentative approval application shall be submitted to the applicable agencies as required for Preliminary Plan approval in the Township's Subdivision and Land Development for review and comment.
14. The application for tentative approval of a Planned Residential Development shall include a written statement by the landowner setting forth the reasons why, in his opinion, a Planned Residential Development would be in the public interest and would be consistent with the Comprehensive Plan for the development of the Township.

#### SECTION 16.09 - PUBLIC HEARINGS

- A. Within sixty (60) days after the filing of an application for tentative approval of a Planned Residential Development pursuant to this Ordinance, a public hearing pursuant to public notice on said application shall be held by the

Board of Township Supervisors in the manner prescribed in Section 18.04. below.

- B. The Board of Township Supervisors may continue the hearing from time to time, and may refer the matter back to the Planning Commission for a report, provided, however, that in any event, the public hearing or hearings shall be concluded within sixty (60) days after the date of the first public hearing.
- C. The Board of Township Supervisors may offer a mediation option as an aid in completing proceedings authorized by this Article prior to final approval by the said Board. In exercising such an option, the Board of Township Supervisors and mediating parties shall meet the stipulations and follow the procedures set forth in Section 18.12. below.

#### SECTION 16.10 - THE FINDINGS

- A. The Board of Township Supervisors within sixty (60) days following the conclusion of the public hearing provided for in this Article, shall, by official written communication, to the landowner, either:
  - 1. Grant tentative approval of the development plan as submitted;
  - 2. Grant tentative approval subject to specified conditions not included in the development plan as submitted; or
  - 3. Deny tentative approval to the development plan. Failure to so act within said period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the landowner may, within thirty (30) days after receiving a copy of the official written communication of the Board of Township Supervisors, notify said Board of his refusal to accept all said conditions, in which case, the Board of Township Supervisors shall be deemed to have denied tentative approval of the development plan. In the event the landowner does not, within said period, notify the Board of Township Supervisors of his refusal to accept all said conditions, tentative approval of the development plan, with all said conditions, shall stand as granted.
- C. The grant or denial of tentative approval by official written communication shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without conditions, or for the denial, and said communication shall set forth with particularity in what respects the development plan would or would not be in the public

interest including but not limited to findings of fact and conclusions on the following:

1. In those respects in which the development plan is or is not consistent with the comprehensive plan for the development of the Township;
  2. The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, impermeability, bulk, and use, and the reasons why such departures are or are not deemed to be in the public interest;
  3. The purpose, location, and amount of the common open space in the Planned Residential Development, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development;
  4. The physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation, and visual enjoyment;
  5. The relationship, beneficial or adverse, of the proposed Planned Residential Development to the neighborhood in which it is proposed to be established; and
  6. In the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the Planned Residential Development in the integrity of the development plan.
- D. In the event a development plan is granted tentative approval, with or without conditions, the Board of Township Supervisors shall set forth in the official written communication the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval, or, in the case of developments over a period of years, the application for final approval of the initial stage, shall not be less than three (3) months and, in the case of developments over a period of years, the time between applications for approval of each part of a plan shall be not less than twelve (12) months.

#### SECTION 16.11 - STATUS OF PLAN AFTER TENTATIVE APPROVAL

- A. The official written communication provided for in Section 16.10 of this Ordinance shall be certified by the Secretary of the Township and shall be filed in his office, and a certified copy shall be mailed to the landowner and applicant. Where tentative approval has been granted, it shall be deemed an amendment to the zoning map, effective upon final approval, and shall be noted on the zoning map.
- B. Tentative approval of a development plan shall not qualify a plat of the Planned Residential Development for recording nor authorize development or the issuance of any building permits. A development plan which has been given tentative approval as submitted, or which has been given tentative approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the Township pending an application or applications for final approval, without the consent of the landowner, provided an application or applications for final approval is filed or, in the case of development over a period of years, provided applications are filed, within the periods of time specified in the official written communication granting tentative approval.
- C. In the event that a development plan is given tentative approval and thereafter, but prior to final approval, the landowner shall elect to abandon said development plan and shall so notify the Board of Township Supervisors in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final approval has not been given shall be subject to those local ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted on the zoning map and in the records of the Secretary of the Township.

#### SECTION 16.12 - APPLICATION FOR FINAL APPROVAL

- A. An application for final approval may be for all the land included in a development plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be made to the Township Secretary and within the time or times specified by the official written communication granting tentative approval. A public hearing on an application for final approval of the development plan, or part thereof, shall not be required provided the

development plan, or the part thereof, submitted for final approval, is in compliance with the development plan heretofore given tentative approval and with any specified conditions attached thereto.

- B. The application for final approval shall be in accordance with the design and improvement requirements for Final Plans contained in the Township's Subdivision and Land Development Ordinance at a scale not smaller than one inch (1") to fifty feet (50'0"). In addition, the following information shall be required:
1. Total acreage of development, land uses in each area, total number of dwelling units, number of each type of dwelling unit, average gross residential density in each section.
  2. Building coverage lines accurately locating all types of dwelling units, and non-residential structures giving dimensions of the structures, distances between the structures, distances to street rights-of-way and parking areas, with distances accurate to the nearest foot.
  3. Accurate dimensions of common open space areas specifically indicating those areas to be preserved in their natural state and those areas to be developed for active recreation. Where common open space areas are to be developed, the location of structures in common open space areas shall be illustrated.
  4. In the case of a Planned Residential Development proposed to be developed over a period of years, final plan requirements will apply only to the section for which final approval is being sought. However, the final plan presented for the section to be developed must be considered as it relates to information regarding densities and types of dwelling units, location of common open space, municipal sanitary sewer and water distribution systems, and street systems presented for the entire development in the application for tentative approval.
  5. Architectural drawings illustrating exterior designs of each type of typical dwelling unit and nonresidential structures to be constructed.
  6. All covenants running with the land governing the reservation and maintenance of dedicated or undedicated open space land which shall be subject to the review and approval of the Township Solicitor as to legal sufficiency.
  7. Restrictions of all types which will run with the land and become covenants in the deeds of lots shown on the final plan.

8. Certificates of approval by authorities as have been required by the Township including certificates approving the water supply system and the sanitary sewer system.

9. Guarantee of Improvements

The guarantee or completion of improvements shall be the same as set forth in the Middlesex Township Subdivision and Land Development Ordinance.

- C. Procedures After Application for Final Approval

1. In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, as required by the Ordinance and the official written communication of tentative approval, the Board of Township Supervisors shall, within forty-five (45) days of such filing, grant such development plan final approval.
2. In the event the development plan as submitted contains variations from the development plan given tentative approval, the Board of Township Supervisors may refuse to grant final approval and shall, within forty-five (45) days from the filing of the application for final approval, so advise the landowner and applicant in writing of said refusal, setting forth in said notice the reasons why one or more of said variations are not in the public interest. In the event of such refusal, the landowner may either:
  - a. Refile his application for final approval without the variations objected; or
  - b. File a written request with the Board of Township Supervisors that it hold a public hearing on his application for final approval.

If the landowner wishes to take either such alternate action he may do so at any time within which he shall be entitled to apply for final approval, or within thirty (30) additional days if the time for applying for final approval shall have already passed at the time when the landowner was advised that the development plan was not in substantial compliance. In the event the landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the development plan. Any such public hearing shall be held pursuant to public notice within thirty (30) days after request for the hearing is made by the landowner, and the hearing shall be conducted in the manner prescribed in this Ordinance for public hearings on applications for tentative approval. Within thirty (30) days after the conclusion of the hearing, the Township Board of Supervisors shall, by official written communications, either grant final approval to the development plan or deny final approval. The grant or denial of final approval of

the development plan shall, in cases arising under this section, be in the form and contain the findings required for an application for tentative approval set forth in this Ordinance.

3. A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the Board of Township Supervisors and shall be recorded forthwith in the office of the Recorder of Deeds of Cumberland County before any development shall take place in accordance therewith. Upon the filing of record of the development plan, the zoning and subdivision regulations otherwise applicable to the land included in such plan shall cease to apply thereto. Pending completion in accordance with the time provisions stated in the Middlesex Township Subdivision and Land Development Ordinance of said Planned Residential Development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or part thereof, as finally approved, shall be made except with the consent of the landowner. Upon approval of a final plat, the developer shall post financial security and record the plat in accordance with the provisions of the Middlesex Township Subdivision and Land Development Ordinance.
4. In the event that a development plan, or a section thereof, is given final approval and thereafter the landowner shall abandon such plan or the section thereof that has been finally approved, and shall notify the Board of Township Supervisors in writing; or, in the event the landowner shall fail to commence and carry out the Planned Residential Development in accordance with the time provisions stated in the Middlesex Township Subdivision and Land Development Ordinance after final approval has been granted, no development or further development shall take place on the property included in the development plan until after the said property is reclassified by enactment of an amendment to this Zoning Ordinance in the manner prescribed for such amendments in this Zoning Ordinance.

#### SECTION 16.13 - JURISDICTION

District justices shall have initial jurisdiction over proceedings brought under Section 16.14 below.

#### SECTION 16.14 - ENFORCEMENT REMEDIES

- A. Any person, partnership or corporation, who or which has violated the Planned Residential Development provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township of

Middlesex, pay a judgment of not less than five hundred dollars (\$500) plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township of Middlesex may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of Planned Residential Development provisions shall be paid over to the Township of Middlesex.

- B. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.
- C. Nothing contained in this Section shall be construed or interpreted to grant any person or entity other than the Township of Middlesex the right to commence any action for enforcement pursuant to this Section.

SECTION 4. Except only as amended, modified and changed herein, the Middlesex Township Zoning Ordinance as originally enacted and as previously amended shall remain in all other respects in full force and effect.

SECTION 5. The provisions of this Ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional, illegal or otherwise invalid, that decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is declared to be the legislative intention that this Ordinance would have been enacted had the unconstitutional, illegal or otherwise invalid provisions not been included in this Ordinance.

SECTION 6. All prior ordinances of this Township or parts thereof which are inconsistent with any of the provisions of this Ordinance are hereby repealed and are declared to be unenforceable.

SECTION 7. This Ordinance shall take effect in accordance with existing law.

DULY ENACTED AND ORDAINED this 4th day of August, 1993, by the Board of Township Supervisors in and for the Township of Middlesex, Cumberland County, Pennsylvania in public session lawfully assembled.

TOWNSHIP OF MIDDLESEX

By

[Signature]  
Vice-Chairman, Board of Township  
Supervisors

ATTEST:

[Signature]  
Township Secretary  
(Township Seal)