

TOWNSHIP OF MIDDLESEX  
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 5 - 2002

AN ORDINANCE OF THE TOWNSHIP OF MIDDLESEX, CUMBERLAND COUNTY, PENNSYLVANIA, AMENDING ORDINANCE NO. 3-89 ENACTED JUNE 30, 1989 KNOWN AS THE "MIDDLESEX TOWNSHIP ZONING ORDINANCE", BY CREATING ARTICLE XVI, UDA-UNIFIED DEVELOPMENT AREA OVERLAY DISTRICT, AMENDING ARTICLE II TO PROVIDE CERTAIN DEFINITIONS, AMENDING ARTICLE III BY PROVIDING PROVISIONS APPLICABLE TO THE UDA-UNIFIED DEVELOPMENT AREA OVERLAY DISTRICT, AMENDING ARTICLE XVIII TO PROVIDE FOR CONDITIONAL USE APPROVALS BY THE BOARD OF SUPERVISORS AND ESTABLISHING AN APPLICATION FEE FOR CONDITIONAL USE APPLICATIONS.

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

SECTION 1: Article II, Section 2.03 of the Middlesex Township Zoning Ordinance is hereby amended to include the following terms and definitions and with respect to the term "conditional use", provide an amended definition as follows:

Active Recreational Use: A leisure time activity, usually of a formal nature and often performed with others requiring equipment and taking place at prescribed places, sites or fields.

Assisted Living Facility: A building or structure, whether operated for profit or not, that provides separate dwelling units for residents and a living arrangement in which personal care services such as meals, housekeeping, transportation and assistance with the activities of daily living are available as needed to people who still live on their own.

Conditional Use: A use permitted pursuant to applicable standards, conditions and criteria prescribed for such use upon approval by the Board of Supervisors and consideration of the recommendation by the Planning Commission.

Nursing Home: A building or structure, whether operated for profit or not, that provides a residence for persons, who by reason of illness, physical infirmity or advanced age, are unable to live on their own and require nursing care, personal care or custodial care.

Master Development Plan: The plan for a UDA Development submitted for and subject to conditional use approval in accordance with the provisions of Article XVI.

Passive Recreational Use: A use that involves relatively inactive or less energetic activities such as walking, sitting and picnicking.

UDA: Unified Development Area

UDA Development: The development of land proposed or existing within the Unified Development Area Overlay District in accordance with Article XVI. UDA Development is also sometimes referred to as the “Development” in Article XVI.

UDA Development Tract: The parcel or contiguous parcels of land that comprise the gross land area on which the UDA Development is proposed or constructed.

SECTION 2: Article III of the Middlesex Township Zoning Ordinance is hereby amended to include the following additional provisions:

SECTION 3.11 - Establishment of Unified Development Area Overlay District.

- A. Overlay Concept. The UDA - Unified Development Area Overlay District shall be an overlay to portions of existing underlying zoning districts as shown on the official Middlesex Township Zoning Map. Except as otherwise specifically provided in Article XVI, only the provisions of the Unified Development Area Overlay District, and not those of the underlying zoning district, shall be applicable to any proposed or existing UDA Development.
- B. The UDA-Unified Development Area Overlay District shall consist of that land area zoned, as of the effective date of this Ordinance, as RF-Residential Farm and RC-Residential Country which is located: north of the CH-Commercial Highway zoning district along U.S. Route 11 and north of Interstate 81, west of Bernheisel Bridge Road, south and east of the Conodoguinet Creek, east of Country Club Road and north of the OS-Open Space zoning district which adjoins Country Club Road to the west.

SECTION 3: The Middlesex Township Zoning Ordinance is hereby amended to include the following new provisions designated as Article XVI:

ARTICLE XVI  
UDA - UNIFIED DEVELOPMENT AREA OVERLAY DISTRICT

SECTION 16.01 - INTENDED PURPOSE. In addition to the general goals listed in the statement of Purposes (Section 1.02) and the Community Development Objectives (Section 1.03), it is the purpose of the Unified Development Area Overlay District:

- 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 non-residential 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 community facilities.
- C. To provide greater opportunities for better housing, community facilities 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 from the type and size of the development secured may inure to benefit those who need homes and for other uses. In addition to the above, economic efficiencies associated with the development plan will provide less cost and maintenance for roadways, stormwater management facilities and development infrastructure through progressive design principals that minimize length of roadway per lot and through homeowners' associations' responsibilities for certain property maintenance.
- E. To encourage flexible land development, which will respect and conserve natural resources such as streams, lakes, floodplains, groundwater, wetlands, wooded areas, steep-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 non-residential development to the particular site and the particular demand for housing and community facilities existing at the time of development in a manner consistent with the preservation of property values within existing residential and non-residential 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.

- G. To promote the inclusion within larger developments of on-site community conveniences and facilities, as well as passive and active open space areas.

SECTION 16.02 - ELIGIBILITY REQUIREMENTS FOR  
UDA OVERLAY DISTRICT DEVELOPMENTS.

- A. No application for a UDA Development under Article XVI shall be considered or approved by the Board of Township Supervisors unless the following requirements are met:

1. The proposed UDA Development shall consist of one or more contiguous parcels of land under single ownership. Parcels may not be removed from the interior of any UDA Development and no contiguous lots are permitted to form an interior area or lot that is not part of a proposed UDA Development.
2. The proposed UDA Development shall be situated entirely within the UDA Overlay District, as depicted on the Middlesex Township Zoning Map.
3. The proposed UDA Development shall be served only by the municipal water supply system and municipal sanitary sewer system as owned by the Middlesex Township Municipal Authority. The applicant shall provide proof from the Middlesex Township Municipal Authority to the Board of Township Supervisors that capacity for both utilities is available for the proposed UDA Development.
4. A minimum of forty percent (40%) of the gross land area of the proposed UDA Development shall be devoted to common open space. (For purposes of this Article XVI, the term "gross land area" shall mean the area contained within the existing boundaries of the land, whether consisting of one or more contiguous parcels, on which development consistent with the provisions of this Article XVI is proposed.)
5. The maximum gross residential density for the total UDA Development shall not exceed 1.6 equivalent dwelling units per gross acre, with equivalent dwelling units for individual residential uses as follows:
  - a. A single-family detached dwelling unit shall equal 1.0 equivalent dwelling unit.
  - b. A single-family semi-detached dwelling unit shall equal 0.612 equivalent dwelling unit.
  - c. A single-family attached dwelling unit (townhouse) shall equal 0.612 equivalent dwelling unit.



- d. A multi-family dwelling unit shall equal 0.693 equivalent dwelling unit.
- e. An assisted living facility and/or nursing home use shall equal 0.25 equivalent dwelling unit per bed.

However, in no case shall the maximum gross residential density for the total UDA Development Tract exceed 2.0 dwelling units per gross acre.

- 6. Proposed uses must be consistent with Comprehensive Plan and those permitted by this Ordinance.
- B. A proposed UDA Development shall be permitted by the Board of Township Supervisors of the Township of Middlesex only upon conditional use approval, which approval shall include approval of a Master Development Plan for a UDA Development. Said Master Development Plan shall be in compliance with the requirements of this Article XVI, and shall incorporate specific elements and requirements of Section 16.08 as described herein. Once the applicant is granted the Conditional Use by the Board of Township Supervisors, the applicant may proceed with filing either preliminary and/or final subdivision and land development plans in phases, so long as each phase is consistent with the approved Master Development Plan.

#### SECTION 16.03 - CONTENT OF APPLICATION FOR APPROVAL OF THE MASTER DEVELOPMENT PLAN.

- A. Applications for conditional use approval of the UDA Development shall include the submission of a Master Development Plan and accompanying supporting data for said plan as required herein. The conceptual design elements shown on the plan shall be indicated in sufficient detail to serve as a firm commitment by the applicant with regard to the future development of the gross land area and for the Board of Township Supervisors and the Planning Commission to evaluate the effect of the Master Development Plan on the health, safety and general welfare of the Township. A fixed dimensional layout showing exact building locations, shapes, dimensions, landscape plans and other engineering details, such as those required for land development approval, shall not be required for conditional use approval of the UDA Development or Master Development Plan.
- B. The required contents of and specifications for preparing the Master Development Plan are as follows:
  - 1. Conceptual site plan prepared by a professional engineer, or professional landscape architect, with the individual(s) preparing the plan being licensed and registered to practice as such under the laws of the

Commonwealth of Pennsylvania, which plan shall include but not be limited to such conceptual design elements and information as follows:

- a. Shall be drawn at a scale of not less than one (1) inch equals two hundred (200) feet.
- b. The total gross area (acreage) of entire development.
- c. The acreage of impervious area and its percentage of the total gross land area
- d. The acreage of common open space and its percentage of the total gross land area
- e. The number of lots for each type of residential use
- f. The total number of residential dwelling units
- g. The gross residential density
- h. The number of dwelling units for each type of residential use and percentage in relation to the total number of residential units.
- i. The acreage of each type of non-residential use
- j. The percentage of the gross land area proposed for non-residential use
- k. General vehicular and non-vehicular circulation patterns for the entire tract
- l. Points of access to the site
- m. A common open space proposal which shall include the location of all of the proposed common open space, the proposed use of each, and the facilities that are anticipated to be placed thereon
- n. Typical lot and building layouts and landscape features for each category of dwelling unit
- o. Boundaries and conceptual depiction of the location and proposed use in each area of the development which shall include depictions of each residential and non-residential use
- p. Location, dimensions of streets and rights-of-way of the proposed road network

- q. Lot lines
- r. Location of proposed public utilities
- s. Schematic groupings of buildings and structures including a schedule of gross floor areas and heights
- t. Schematic provision of storm water management facilities accompanied by a written analysis and conclusions as to anticipated storm water management methods
- u. Any other data as found necessary by the Township Planning Commission and Board of Supervisors

C. Additional required supporting data and plans:

- 1. A Water supply proposal and feasibility report from the Municipal Authority
- 2. A Sewage service proposal feasibility report from the Municipal Authority
- 3. Architectural documents in accordance with Section 16.07.A.12 of this Ordinance
- 4. The Natural Features Analysis in accordance with Section 16.06.A of this Ordinance
- 5. The Community Impact Analysis prepared in accordance with Section 16.06.B of this Ordinance
- 6. A narrative that generally describes the proposed covenants, restrictions and development standards

SECTION 16.04 – PROCEDURES.

The following procedures shall apply to the proposed UDA Development:

- A. Conditional Use Review of Master Development Plan Application. The Master Development Plan Application and all supporting documents and filing fees shall be submitted to the Zoning Officer. The notice, hearing and decision procedures set forth in Article XVIII, Section 18.13 shall be followed.

- B. Criteria For Master Development Plan Application Review. The Board of Township Supervisors shall consider the following criteria when evaluating Master Development Plan Applications submitted under the provisions of this Article XVI:
1. The natural environments of the tract, with particular reference to preservation of streams, woodlands, Pennsylvania Natural Diversity Index Sites, woodlands and slopes in excess of twenty-five percent (25%), protection against soil erosion and water contamination, and provision for flood and surface water run off control.
  2. Location of development areas, uses described in Section 16.05, infrastructure and common open space shall take into account the following:
    - a. Suitability with respect to topography and drainage.
    - b. Compatibility with surrounding land use.
    - c. Preservation of significant natural features and vegetation.
    - d. Preservation of significant visual resources.
  3. Consideration of traffic improvements designed to alleviate potential vehicular traffic congestion resulting from implementation of the Master Development Plan on a phase-by-phase basis, including any off-site improvements demonstrated to be required as a result of the UDA Development.
  4. Provision for the ownership and restrictions of the proposed common open space, which will secure proper maintenance and preservation thereof for common open space purposes.
  5. Preservation of historic sites and structures.
  6. Determination of suitability with respect to each of the purpose statements in Section 16.01.
  7. Compliance with the applicable standards of this Article.
- C. Authority to Attach Reasonable Conditions to Approval. In approving the Master Development Plan Application, the Board of Township Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed in this Article, as it may deem necessary to protect the health, safety and welfare of the Township residents.
- D. Submission of Subdivision and Land Development Plan. Approval of the Master Development Plan Application shall not effect a subdivision or land development

of any part of the Master Development Plan Tract. The developer, or any successor to the developer, for all or any portion of the UDA Development, shall comply with the Middlesex Township Subdivision and Land Development Ordinance procedures and requirements to the extent that Ordinance is not inconsistent with the approved Master Development Plan for the UDA Development. Applications for subdivision and land development approvals may be for individual phases of the UDA Development. Conditional use approval of the Master Development Plan Application by the Board of Township Supervisors will be in lieu of any other zoning or use approval otherwise required with respect to uses approved as a part of the Master Development Plan Application.

- E. Vested Right to Proceed. The applicant, or any successor to the applicant, for all or any portion of the UDA Development, shall have a vested right to proceed according to the Master Development Plan Application, and no subsequent change or amendment to the zoning, subdivision and land development ordinance, or other governing ordinance or regulation, shall be applied to affect adversely the right of the applicant, or any successor, to commence or complete any aspect of the approved Master Development Plan Application, or materially increase the amount of site improvements or the projected cost of construction of buildings and site improvements, for a period of twenty (20) years from the date of conditional use approval of the Master Development Plan Application.
- F. Amendment of Master Development Plan Application.
  - 1. Once conditional use approval is granted by the Board of Township Supervisors for the Master Development Plan showing a UDA Development to be developed in phases, after approval by the Board of Township Supervisors of a final subdivision and land development plan for individual phases as required by the Middlesex Township Subdivision and Land Development Ordinance, and after obtaining development related approvals required by other Federal, State or local laws and/or ordinances, development may be commenced for individual phases only in a manner which is generally consistent with the approved Master Development Plan. The Board of Supervisors, in its discretion, may approve changes to the Master Development Plan if such changes do not materially alter the use, density, number or type of buildings or units, street classifications or other aspects of the Master Development Plan.
  - 2. The Board of Township Supervisors may permit material changes to the Master Development Plan upon application for amendment by an applicant representing the entirety of, or any portion of, the UDA Development by following the procedures and criteria outlined in Section 18.13 of this Ordinance.

## SECTION 16.05 - LAND USE AND DENSITY REQUIREMENTS.

### A. Uses permitted in a UDA Development are as follows:

1. Residential Uses:
  - a. Single-family detached dwellings
  - b. Single-family semi-detached dwellings (e.g. duplex)
  - c. Single-family attached dwellings (e.g. townhouses)
  - d. Multi-family dwellings
  - e. Assisted living facilities and nursing homes only if ancillary to the residential development in accordance with conditions contained herein.
2. Non-residential Uses:
  - a. Local convenience uses of the retail and service type. Examples of such uses are grocery stores, drug stores, medical and dental clinics, and other uses of a similar character.
  - b. Community services such as meeting rooms, health facilities, and other uses of a similar character for use by the residents.
  - c. Community facilities such as schools and churches.
  - d. Golf Courses, including accessory uses, buildings and structures customarily associated with a golf course, such as, but not limited to, a club house, locker rooms, maintenance and storage buildings, practice driving range and putting greens, rest room facilities and lightning shelters, provided, however, that the golf course is developed in conjunction with a residential development approved as part of the UDA Development.
3. Active and passive recreational uses in conjunction with the common open space requirements of this Ordinance.

### B. The UDA Development shall have a mix of residential uses consisting of the following dwelling types within the proportions provided below. Once these minimum proportional requirements are met, the proportions of all other permitted residential uses shall be left to the discretion of the applicant.

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: A maximum of thirty five percent (35%) of all proposed dwelling units.

3. Single-Family Attached (townhouses): A maximum of thirty-five (35%) of all proposed dwelling units.
  4. Multi-Family Apartments or Assisted Living Facilities: A maximum of ten percent (10%) of all proposed dwelling units.
  5. Nursing Homes: A maximum of two percent (2%) of all proposed dwelling units. For purposes of this provision, four (4) beds shall constitute one (1) dwelling unit.
- C. The UDA Development shall be regulated by the following standards relative to impervious coverage:
1. Impervious area shall not exceed twenty-five percent (25 %) of the gross land area.
  2. The maximum impervious area permitted on any lot for single family residential use shall be fifty percent (50%) of the lot area.
  3. The maximum impervious area permitted on any lot for non-residential use shall be sixty-five percent (65 %) of the lot area.
- D. The areas set aside for non-residential uses and community services and/or facilities shall not exceed the following maximums:
1. The total area of all lots set aside for uses identified in Section 16.05A.2.a within the UDA Development shall not exceed three percent (3%) of the gross land area.
  2. The total area of all lots set aside for community services and/or facilities (not including active recreation areas) within the UDA Development shall not exceed three percent (3%) of the gross land area.
  3. The areas set aside for non-residential use and community services and/or facilities within the UDA Development may be combined.

#### SECTION 16.06 - SITE ANALYSIS.

The applicant must demonstrate to the satisfaction of the Board of Township Supervisors during the conditional use approval process that both the opportunities provided and the constraints imposed by natural features and community facilities have been considered in the site design of the proposed Master Development Plan.

- A. A Natural Features Analysis is required to determine which specific areas of the gross land area are suitable for development and which areas should be preserved

in their natural state. The Natural Features Analysis shall consist of the identification and analyses of the following:

1. An analysis of the site topography, before and after construction. Said analysis can be based upon, at a minimum, an interpolation of existing U.S.G.S mapping and shall include:
  - a. Delineation of slope areas according to the following categories: 0-8%, 8-15%, 15-25% and over 25% slope.
  - b. Wooded/forested areas and areas containing significant tree clusters shall be identified and mapped. In addition, where wooded/forested areas are proposed to be disturbed, dominant tree species should be identified with individual mature trees having a caliper of six (6) inches or more located.
  - c. Areas containing other natural amenities shall be mapped based upon a reliable source of information.
  - d. A conceptual finish grading plan at a contour interval sufficient enough to demonstrate that the development site can be graded without excessive earthmoving.
  - e. The conceptual finished grading plan shall indicate those areas where trees will be removed as a result of site grading so as to ascertain that the development site can be graded without excessive adverse impact or destruction of natural amenities.
  - f. The conceptual finished grading plan shall indicate those areas where natural amenities are adversely impacted and or destroyed so as to ascertain that development site can be graded without excessive adverse impact or destruction of natural amenities.
  - g. The applicant shall also provide a conceptual Erosion and Sediment Pollution Control Plan, which should illustrate and otherwise identify the method and the means by which erosion will be controlled during construction to the extent that the site's natural features and amenities are not impacted.
2. An analysis of natural drainage patterns and water resources. Using existing topographic, soils, geologic, aerial, photographic, GIS and other existing published data, all streams, natural drainage swales, ponds or lakes, wetlands and marsh areas, floodplain areas, permanent and seasonal high water table areas shall be identified and included in the analysis. The applicant must demonstrate that natural elements and drainage patterns will be preserved to the extent feasible and incorporated into the final design of the development.



3. Identification of the areas of the site proposed to be disturbed that are found to have inadequate natural surface drainage. The method by which said natural surface drainage must be enhanced to accommodate the proposed development shall be described.
  4. Using existing available geographic and hydrogeographic data, an analysis of the characteristics of rock formations underlying the site and a delineation of all aquifers (particularly those locally subject to pollution and with low groundwater yields) shall be delineated, including the highlighting of shallow depth-to-bedrock areas, and areas in which rock formations are unstable. An analysis of these natural features followed by conclusions indicating that these features will neither be adversely impacted by the proposed development nor pose any limitations that cannot be overcome. A recommendation as to how limitations can be overcome is also required.
  5. An analysis of on-site soils. Mapping shall be provided, based on an interpolation of the then current Soil Survey of Cumberland and Perry Counties published by the United States Department of Agriculture, Soil Conservation Service, or any successor publication, indicating the location of site specific soil types and whether they are categorized as Class I or Class II agricultural soils. Soils shall be further described in detail including their limitations for use as construction material. In addition, an analysis is required followed by conclusions drawn therefrom indicating that the on-site soils will neither be adversely impacted by the proposed development nor will they pose any limitations that cannot be overcome. A recommendation as to how limitations can be overcome is also required.
  6. An analysis of the existing on-site vegetation (other than trees and woods as required above) describing the type of cover, calculating the percentage that will be removed, and illustrating location of said removal.
- B. A Community Impact Analysis is required in order to identify and address the potential effects and impacts of the development upon community facilities. Applicable provisions of the Community Impact Analysis shall be prepared in accordance with provisions contained in Section 717, Traffic Impact and Section 718, Environmental Impact Assessment Report of the Middlesex Township Subdivision and Land Development Ordinance. The facilities required to be analyzed are as follows:
1. Transportation and surrounding roadway system
  2. Water supply
  3. Sewage disposal
  4. Public utilities, such as electricity, gas, telephone and cable television
  5. Solid waste disposal
  6. Emergency Services, such as police, fire protection, and ambulance
  7. Schools

8. Recreation

The analysis shall contain a detailed description as to how any identified impacts will be addressed and mitigated by the applicant.

SECTION 16.07 - SITE DESIGN REQUIREMENTS

The results of the Natural Features Analysis and Community Impact Analysis as required by Sections 16.06.A and 16.06.B shall be used as the basis upon which the site is to be designed. In addition, the following specifics shall apply with respect to the types of uses proposed:

A. Residential Uses:

1. The following minimum area, bulk and spacing requirements shall apply:

a. Single-family detached dwelling units:

Lot area - 7,500 square feet minimum with a development-wide required average of no less than 10,000 sq. ft.  
Front yard - 30 feet  
Side yard - 15 feet aggravated; 5 feet minimum  
Rear yard - 30 feet

b. Single-family semi-detached dwellings:

Lot area - 7,000 square feet minimum with a development wide average of no less than 8000 sq. ft.  
Front yard - 30 feet  
Side yard - 10 feet (one side, 0 for party wall)  
Rear yard - 30 feet

c. Single-family attached dwellings (townhouses):

Lot Area - None  
Unit Width - 20 feet minimum. An 18 feet minimum width is allowed if the width of the entire structure results in an average unit width greater than 20 feet.  
Front yard - 25 feet  
Building separation - side to side - 15 feet  
Building separation - rear to rear or side - 40 feet

d. Multi-family dwellings, Assisted Living Facilities, Nursing homes:

Front yard - 30 feet  
Building separation - 30 feet

2. Building set-backs and distances between buildings shall be varied from the minimum in order to create interesting architecture in the layout and character of housing, but shall, in all cases, comply with the minimum requirements of Section 16.07.A.1.
4. Dwelling unit structures shall be located and arranged so as to promote acoustic and visual privacy for residents within and adjacent to the development.
5. Structures within the UDA Development shall be located so that there will be minimal adverse impact upon other structures such as excluding natural light or invading the privacy of adjacent structures.
6. Dwelling unit structures shall be located and sited so as to promote pedestrian and visual access to common open space wherever possible.
7. Dwellings shall be arranged in clusters so as to reduce the amount of improvements required to support residences, thereby minimizing both development and maintenance costs, and to provide immediate access to common open space.
8. There shall be an open space around the perimeter of the UDA Development. All individual lot lines shall be located no closer than thirty-five (35) feet from the perimeter boundary line.
9. 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 landscape berms, vegetative plantings and/or fences.
10. The following additional requirements shall apply:
  - a. No structure shall be located within twenty-five (25) feet of a public or private street right-of-way line.
  - b. No structure shall be located within fifteen (15) feet of any other structure.
  - c. There shall be a minimum of fifty (50) feet between groups of different dwelling types. The individual groups of different dwelling types shall be screened from each other by combinations of landscape berms, vegetative plantings and/or fences. The buffer between dwelling types may be satisfied by locating a street between them with an additional 25 feet of landscape area adjacent to and beyond the street right -of- way line.

- d. The maximum dimension of multi-family structures shall be one hundred forty (140) feet. To the extent applicable and not otherwise specifically addressed in this Article XVI, the provisions of Article XIV, Section 14.38 of the Middlesex Township Zoning Ordinance shall apply.
  - e. Architectural documents must supplement development plans proposing assisted living and nursing home facilities. Said documents are required at the preliminary subdivision and land development plan approval stage of the planning process and are subject to the review and approval of the Board of Township Supervisors. Documents shall be based on architectural compatibility and proper land planning concepts.
  - f. Development plans proposing assisted living and nursing home facilities must demonstrate that said facilities can only be accessed without having to pass through the residential sectors of the development. Routes providing access to these facilities through residential areas of the development are prohibited. Access driveway(s) must intersect only with either collector roads exterior to the development or within the development in such a manner so as not to cause facility-generated traffic to pass through other residential areas of the development.
  - g. No structure or building shall have a height in excess of thirty-five (35) feet.
11. A pedestrian path system must be provided to interconnect all of the common open space.
- a. The pedestrian path system must interconnect all of the common open space and shall avoid crossing arterial or collector streets wherever possible.
  - b. Access corridors connecting common open space areas between lots shall be a minimum of fifteen (15) feet in width.
  - c. Connecting pathways within common open space areas shall be improved to a minimum of four (4) feet in width.
  - d. Street sidewalks can be an ancillary component of the pedestrian path system so long as they connect to other components of the system resulting in one contiguous / continuous pathway.

- e. The pedestrian path system may be substituted for the required sidewalks if the pedestrian path system complies with the provisions immediately above.
12. Typical Architectural Documents are required to be submitted with the Master Development Plan and must contain the following information:
- a. Plan and elevation views.
  - b. Exterior materials of all residential and non-residential structures.
  - c. Architectural documents can be illustrative only and may be modified later on in the planning process.
13. Street shall be designed in accordance with the following general standards:
- a. The design specifications contained in the latest edition of the Township Subdivision and Land Development Ordinance shall govern except as indicated herein.
  - b. Streets should be curvilinear in nature so as to produce a constantly changing streetscape.
  - c. Collector Street Design Specifications:
    - (1) The development must be provided with at least one collector street and possibly more, if deemed necessary by the Township Engineer, using sound principles of vehicular collection design.
    - (2) Where curb is required the width of the cartway can vary from a minimum of 36 feet (2 – 18 feet lanes) to a maximum of 40 feet. (2-20 feet lanes) based on density.
    - (3) Where no curb is required the width of the cartway shall be 24 feet wide ( 2 – 12 ft. lanes) with shoulder width varying from 6 ft to 8 ft. based on density.
  - d. Local Street Design Specifications:
    - (1) Where curb is required cartway width can vary based on density and terrain from a minimum of 28 feet (2 – 14 ft lanes) to a maximum of 36 feet (2-18 ft. lanes).
    - (2) Where no curb is required the cartway width can vary between 18 feet (2 – 9 ft. lanes) with 4 feet wide shoulders to a

maximum of 24 feet (2 – 12 feet lanes) with 6 feet wide shoulders. Variation shall be based on density and terrain.

- e. Engineering studies, prepared by a licensed Professional Civil Engineer, supporting the selected design width shall be submitted with the application.

14. Additional single family lot design requirements:

- a. All single family lots will be required to accommodate a two-car garage that shall not be converted for another use.
- b. The driveway must be wide enough to accommodate 2 parking spaces in addition to the 2 spaces provided by the garage.
- c. Each block or cluster of single-family lots shall contain an overflow parking lot large enough to accommodate 0.25 parking spaces for each dwelling unit in the cluster or block. Additional overflow parking lot requirements are as follows:
  - (1) Overflow parking lots must have direct access to the adjacent street sidewalk and the developments Pedestrian path system.
  - (2) Shall be surrounded by a 10 feet wide landscaped screen buffer containing both trees and shrubbery.
  - (3) The development's Homeowners' Association or other responsible party as described in Section 16.08 shall own and maintain overflow parking areas.
  - (4) Overflow parking lots shall be provided with safety lighting that may be located within the screen buffer so long as the illumination specifications of this Ordinance are maintained.
  - (5) Overflow parking lots shall be setback from the adjacent street right-of-way line a minimum distance of 10 feet, with buffer plantings to be located within the setback area.

B. Non-Residential Uses:

- 1. Must be architecturally compatible with residential structures.

2. Must be located within the Development, not on its perimeter and have direct access to a non-residential collector street not closer than fifty- (50) feet from the nearest lot line of a residential use.
3. Must be screened from groups of residential dwelling types within the UDA Development by the use of berms, landscaping, and/or fences.
4. All non-residential uses shall have direct access to the development's Pedestrian path system system, and if possible within a convenient walking distance of residential dwelling units.
5. Building Setback Requirements:
  - Front Yard: Of sufficient distance from the street right of way line to accommodate efficient parking and at least a 25 foot wide landscape buffer between the right of way line and the parking area.
  - Side Yard: 50 feet
  - Rear Yard: 50 feet
6. Screening Requirements: The commercial use must be screened from residential areas by use of landscape berms, vegetative plantings and/or fences.
7. Signs for non-residential uses are permitted, subject to the following restrictions:
  - a. All signs shall conform to Article XIV, Section 14.16 of the Middlesex Township Zoning Ordinance.
  - b. A single ground-pole sign is permitted. Such sign shall be limited to a height of twelve (12) feet and shall otherwise conform to one-fourth (25%) of the dimensional requirements for ground-pole signs as detailed in Article XIV, Section 14.16 B. 3. of the Middlesex Township Zoning Ordinance.
  - c. Wall signs in accordance with Article XIV, Section 14.16 B. 2. of the Middlesex Township Zoning Ordinance shall be permitted on a structure for individual use and shall otherwise conform to the dimensional requirements for wall signs in Section 14.16 B. 2. of the Middlesex Township Zoning Ordinance.
8. Parking facilities shall be governed by Article XIV, Sections 14.10 and 14.11 of the Middlesex Township Zoning Ordinance and shall be designed solely for the intended non-residential commercial use.

- a. Parking facilities must be physically separated from residential parking areas in the development.
  - b. Visual screening shall be provided between non-residential parking areas and residential areas.
  - c. Lighting is required and 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 the Middlesex Township Zoning Ordinance shall apply.
9. No structure or building shall have a height in excess of thirty-five (35) feet.

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. Common open space shall be designed as a contiguous area between residential areas with convenient pedestrian and maximization of visual access to residents of the development.
3. All open space will be interconnected by a continuous pedestrian path system. All path systems are to be of hard material with the exception of paths in wetland areas. The materials and construction of wetland paths shall comply with environmental regulations.
4. 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.
5. 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. For each three hundred and fifty (350) lots there shall be one sports field, i.e. football, soccer, or baseball that is for the use of the development and the community at large. The facilities shall be owned and maintained by the Homeowners' Association, who will also be responsible for scheduling of the facilities for use.
6. Areas designated for common open space shall contain no structures other than those directly related to outdoor recreational uses and structures associated with utilities and maintenance of the common open space.



7. All areas designated as common open space shall 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. Required Public Improvements:

1. Streets, street lights, street trees, landscape screening, the pedestrian path system, sewer, water, storm drainage, soil erosion control facilities, curbs, gutters, and sidewalks shall at a minimum be considered as required public improvements and shall be designed and constructed in accordance with the requirements and standards set forth in the Middlesex Township Subdivision and Land Development Ordinance.
2. Performance and maintenance guarantees are required for public improvements. The standards set forth in the Middlesex Township Subdivision and Land Development Ordinance shall dictate the requirements for placing said guarantees with the Township as well as the requirements for requesting release therefrom upon completion of improvements.

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 a low-intensity type. Article XIV, Section 14.18 C.9 of the Middlesex Township Zoning Ordinance shall apply.
2. All telephone, electric, gas and cable television utilities shall be installed underground.

SECTION 16.08 - 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 Master Development Plan approval.
- B. The developer shall establish a Homeowners' Association(s) in accordance with the following provisions:

1. The Homeowners' Associations(s) shall be established as an incorporated organizations(s) operating under recorded land agreements through which each lot owner (and any succeeding owner) is a member, and each lot is 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 phases, the Homeowners' Association(s) shall also be implemented in phases 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 UDA 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 UDA 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 sixty (60) days thereof, and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice. The notice should also define the penalty and or fines that may be imposed as a result of the failure to maintain. At the 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 sixty (60) days or any extension

thereof, the Board of Township Supervisors, in order to preserve the taxable values of the properties within the UDA 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 to be established by the Board of Township Supervisors. Said maintenance shall not constitute a taking of said common open space, nor vest in the public any rights to use the same.

Before the expiration of the period of Township maintenance, the Board of Township Supervisors 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 UDA Development, to be held by the Board of Township Supervisors, at which hearing such organization or the residents of the UDA Development shall show cause why such maintenance by the Township shall not, at the option of the Board of Township Supervisors, continue for a succeeding period of time. 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 the initial time period. 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 time period and, subject to a similar hearing and determination, in each time period thereafter.

- E. The decision of the Board of Township Supervisors shall be subject to the appeal to court in the same manner, and within the same time limitation, as is provided for zoning appeals in the Middlesex Township Zoning Ordinance.
- G. The cost of such maintenance by the Township shall be assessed ratably against the properties within the UDA 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 UDA Development for collection of such cost and to otherwise stand in the stead of the organization in enforcing its collection remedies.

#### SECTION 16.09 –DEVELOPMENT IN PHASES

- A. A UDA Development may be developed in phases if the following standards are met:
  - 1. The location and approximate sequence of construction of each phase must be delineated on the Master Development Plan.
  - 2. All phases must be set up to be completed sequentially and must be consistent with the Master Development Plan.

3. If phases are not completed sequentially and are instead varied, the developer must present a valid reason such as utility extension costs or real estate market conditions.
4. All phases must be of a size and location that they constitute economically sound units of development.
5. A condition must be placed on the plan that at least 70% of all dwelling units in any given phase must be completed before any non-residential, commercial construction within that phase can begin.
6. A developer's agreement shall be submitted and upon approval of the Board of Supervisors, entered into with the Township, which establishes the project commencement and completion dates of each phase of the development, the active and passive recreational use facilities, community facilities and open space.

SECTION 4: Article XVIII of the Middlesex Township Zoning Ordinance is hereby amended to include the following new section designated as Section 18.13:

SECTION 18.13 – CONDITIONAL USES.

- A. For any use permitted as a conditional use, conditional use approval must be obtained from the Board of Supervisors in accordance with the requirements and procedures of this section.
- B. Any request for conditional use approval shall be made by the submission of an application together with 15 copies thereof to the Zoning Officer, which application shall contain and be submitted with the following:
  1. Ground floor plan and elevations for all proposed structures for non-residential use;
  2. Names and addresses of all adjoining property owners including owners of property located directly across any public road or right-of-way;
  3. A scaled drawing of the site (the "site plan") containing sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance and including location of all existing and proposed structures and identification of use; location of access drives and parking area, existing and proposed contours, storm drainage calculations, site location and metes and bounds of the tract;

4. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Zoning Ordinance;
5. Any other documents, reports and information required to be submitted for conditional use approval as specified in other provisions of this Zoning Ordinance; and
6. The payment of an application fee of \$600.00 for conditional use approval, which fee may be changed from time to time by Resolution of the Board of Supervisors. The application fee shall cover the administrative, notice and advertising costs associated with processing and hearing the conditional use application. In addition, all applicants shall be required to pay for all costs for the attendance of a stenographer at the applicant's conditional use hearing together with any costs necessary to transcribe the record of the hearing if requested by the Township. Such costs shall be paid by applicant with thirty (30) days of the mailing of any statement by the Township for such costs. With respect to any conditional use application for a UDA Development, the applicant shall deposit with the Township the sum of \$1,000.00, which sum shall be in addition to the application fee and stenographic costs, to be utilized by the Township for the payment of reasonable charges incurred by the Township's consultants and/or engineers for review and report to the Township with respect to UDA Development application. The fees charges shall be based on fee schedules or rates adopted by Resolution of the Board from time to time and may include rates adopted after the submission of an application for conditional use approval of a UDA Development for professional consultants utilized by the Township as a result of the specific application submitted. The applicant shall be responsible for the payment of any engineer and consultant fees in excess of the sum deposited and will pay same within thirty (30) days after the final hearing on the conditional use application. The Township shall refund any unused portion of the sum deposited within thirty (30) days after the final hearing. The provisions of Section 309 of the Middlesex Township Subdivision and Land Development Ordinance shall apply in the event of a dispute by the applicant with respect to any fees charged for consultants or engineers.

C. Each applicant requesting conditional use approval must demonstrate compliance with the following criteria:

1. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

2. That the conditional use will not be injurious to the use and enjoyment of adjoining or nearby properties nor substantially diminish or impair property values within the neighborhood.
3. That the conditional use will not effect a change in the character of the subject property's neighborhood.
4. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district.
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and to facilitate the circulation and movement of pedestrian and vehicular traffic.
6. That adequate utility services and facilities such as sanitary and storm sewers, water, trash and garbage collection and disposal, access roads, fire, police and ambulance protection and other necessary facilities have been or are being provided.
7. That the proposed use is not inconsistent with the planning policies of the Township as contained in the comprehensive plan.
8. That the proposed use is not inconsistent with the intended purpose of the zoning district and any applicable overlay district.

In addition to the above criteria, each applicant is required to demonstrate compliance with any specific criteria applicable to the conditional use as set forth in any other provisions of the Zoning Ordinance.

- D. In granting a conditional use, the Board of Supervisors may attach such reasonable conditions and safeguards in addition to those expressed in this Ordinance as it deems necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code. Such conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in this Ordinance.
- E. Any site plan presented in support of the conditional use pursuant to Section 18.13 shall become an official part of the record for the conditional use. Approval of any conditional use shall be binding upon the applicant with respect to the submitted site plan; therefore, should any change be required as part of the approval of the use, the applicant shall submit a revised site plan prior to or as a condition of conditional use approval. Any proposed subsequent changes to the use on the subject property not reflected on the site plan upon which conditional use approval was granted shall require the obtainment of another conditional use

approval except in the case of a Master Development Plan for those changes that are approved by the Board of Supervisors pursuant to Section 16.04F.1 of this Ordinance.

- F. Before voting on the approval of a conditional use, the procedures and requirements set forth below shall be followed:
1. Upon the submission of the items noted in Section 18.13B to the Zoning Officer, copies of the application shall be submitted to the Planning Commission at least thirty (30) days prior to the hearing on the application by the Board of Supervisors. The Planning Commission shall consider the application based upon the criteria set forth in this Section and any other applicable provisions of this Ordinance and submit its recommendations on the conditional use request to the Board of Supervisors.
  2. The Board of Supervisors shall hold a public hearing on the conditional use request pursuant to public notice. The first hearing shall be commenced within sixty (60) days from the date of the submission of the application to the Zoning Officer and each subsequent hearing shall be held within 45 days of the prior hearing unless otherwise agreed to by the applicant. The Zoning Officer shall provide written notice to the applicant and all property owners identified in Section 18.13B.2 at least seven (7) days prior to the date of the public hearing and shall conspicuously post the affected tract of land with notice of the hearing at least seven (7) days prior to the date of the hearing. The hearing shall be completed no later than 100 days after the completion of the applicant's case in chief unless extended for good cause upon application to the Court of Common Pleas of Cumberland County.
  3. In addition to all other powers and authority given by law to the Board of Supervisors, the Board of Supervisors, by its Chairman, or in the Chairman's absence the Vice-Chairman or Acting Chairman, shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of documents and things. Any stenographer present for purposes of recording the proceedings shall also have the authority to administer oaths. The Board of Supervisors shall also have the power to request that all persons who wish to be considered parties enter an appearance in writing on forms provided for that purpose.
  4. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine witnesses on all relevant issues. The formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
  5. The Board of Supervisors may keep a stenographic record of the proceedings, in which event the appearance fee for the stenographer shall be shared equally



by the applicant and the Board of Supervisors. Each party or person requesting a copy of the transcript of the proceeding shall be responsible for paying the cost and/or fee for the transcript.

6. The Board of Supervisors may in its discretion appoint any Supervisor or an independent attorney as a hearing officer to conduct the hearing on the conditional use application.
- G. The Board of Supervisors shall render a written decision or, when no decision is called for, make written findings on the conditional use application within forty-five (45) days after the last hearing before the Board of Supervisors. Where the application is contested or denied, the decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code or any rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found.
- H. The following time limitations or constraints shall apply in the event a conditional use is granted, except any conditional use granted for a UDA Development:
  1. All necessary permits shall be secured and the authorized action begun within two (2) years after the date when the conditional use is granted, and the construction or alteration, as the case may be, shall be completed within three (3) years of said date. For good cause, the Board of Supervisors may upon application in writing extend either of these deadlines.
  2. Should the applicant fail to obtain the necessary permits within the said two (2) year period, or having obtained the permits should fail to commence work thereunder within the two (2) year period, it shall be conclusively presumed that the applicant has waived, withdrawn, or abandoned the application, and all approvals and permits granted to the applicant shall be deemed automatically rescinded by the Board of Supervisors.
  3. Should the applicant commence construction or alteration within said two (2) year period, but should the applicant fail to complete such construction or alteration within said three (3) year period, the Board of Supervisors may, upon ten (10) days notice in writing, rescind or revoke the granted conditional use, if the Board of Supervisors finds that no good cause appears for the failure to complete within the three year (3) period, and if the Board of Supervisors further finds that conditions have changed in the interval since the granting of the conditional use that revocation or rescission of the action is justified.
  4. As an alternative to the preceding, an applicant can request, as part of the original application, the granting of a timetable associated with the request which would supersede the deadlines imposed in Section 18.13H.1. In so



doing, the applicant must demonstrate that the times requested are logically related to normal and expected progress of the project and any related subdivision and land development approvals. In approving a timetable under this section, the Board of Supervisors must establish and find a definite time frame for (1) issuance of permits; and (2) completion of construction of the project.

SECTION 5: 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 6: If any section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance is declared by any reason to be illegal, unconstitutional, or invalid by any court of competent jurisdiction, such decision shall not effect or impair the validity of this or the Middlesex Township Zoning Ordinance as a whole, or any other section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of this or the Middlesex Township Zoning Ordinance. The Board of Township Supervisors hereby declares that it would have adopted this Ordinance and each section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the fact that any one or more of the sections, sub-sections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases or words may be declared illegal, unconstitutional or invalid.

SECTION 7: This Ordinance shall become effective in accordance with applicable law.

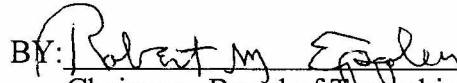
ORDAINED AND ENACTED this 2 day of October, 2002.

ATTEST:

  
\_\_\_\_\_  
Township Secretary

(SEAL)

TOWNSHIP OF MIDDLESEX

BY:   
\_\_\_\_\_  
Chairman, Board of Township  
Supervisors