PLANNING DEPARTMENT
Cumberland County

Cumberland County Planning Commission Agenda

Cumberland County Planning Department
310 Allen Road, Suite 101
Carlisle, PA 17013
Telephone: (717) 240-5362

August 21, 2025 - 7:30 AM**

- **Call to order (Chair).**
  - Pledge of allegiance.
  - Moment of silent reflection.
- **Agenda modifications and approval (Chair).**

Additions to agenda must be approved by majority of CCPC members present and be de minimis in nature with no contractual or financial obligations.

- **Non-agenda public comment (Chair).**
  - Written comments provided by residents.
  - Comments by residents in person.
  - Online virtual comments.
- **Action Items**
  - Approval of minutes –July 17, 2025 (Chair)
  - Cumberland County Blighted Property Reinvestment Board (Mikayla Kitchen)
    - ◊ 137 South East Street, Carlisle, PA
    - ◊ 156 South West Street, Carlisle, PA
  - Hampden Township
    - ◊ Curative Amendment for Wertzville Road and Good Hope Road-Rezone from RC to CG (Steve Hoffman)
  - West Pennsboro Township
    - ◊ Daniel Erickson ASA submission (Nate Bard)
    - ◊ New zoning ordinance and map (Steve Hoffman)
  - Middlesex Township
    - ◊ New zoning ordinance and map (Steve Hoffman)
  - Cumberland County Hazard Mitigation Plan (HMP) Update (Steve Hoffman)
    - ◊ Forward plan to PEMA and FEMA for review and approval.
    - ◊ https://www.cumberlandcountypa.gov/4902/Hazard-Mitigation-Plan

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- **Informational Items**
  - Consistency Letters (Kirk Stoner)
    - ◊ Consistency request list
  - Plans and minor amendments (Steve Hoffman)
    - ◊ Monthly plan summary
      - ⇒ Plan list-11 plans
      - ⇒ Online growth dashboard: https://gis.ccpa.net/growthtrends/
    - ◊ Monthly MPC review summary (Steve Hoffman)
      - ⇒ Silver Spring Township-zoning text amendment to allow solar farms on roof tops in the light industrial district.
      - ⇒ Hopewell Township-zoning text amendment to regulate principal and accessory solar energy.
  - MPC Adoption Update (Steve Hoffman)
  - 2025 planning program report (Kirk Stoner).
    - ◊ August 2025 dashboard
  - Commissioners' liaison report (Commissioner Neiderer).
  - Coordinating agencies report (Kirk Stoner).
  - Adjournment (Chair).
    - ◊ Next meeting scheduled for September 18, 2025.

***This meeting will be conducted in person with a video teleconference option. Video teleconference participants are advised that unforeseen technical difficulties may occur that would impede the ability to participate in the meeting. In-person meeting attendance or written input is encouraged.*

Residents wishing to provide written comments should provide those comments to Kirk Stoner, kdstoner@cumberlandcountypa.gov or by mail to 310 Allen Road, Carlisle, PA 17013. All written comments will be referenced during the public comment section of the agenda and provided to CCPC members in advance of the meeting.

PLANNING DEPARTMENT
Cumberland County

Cumberland County Planning Commission (CCPC)
Meeting Minutes
July 17, 2025
7:30 AM – In Person/Zoom

Roll Call

CCPC Members:	X	Tim Johnson		Tracey Vernon
	X	George Tyson	X	Matt Fisher
	X	Fred Reddig	X	Ed Franco
	X	Jeanna Som	X	Kelly Palmer
	X	Brandon Weary		
	X	(Commissioner Liaison) Kelly Neiderer		
CCPD:	X	Kirk Stoner	X	Elizabeth Grant
	X	Steve Hoffman		Jessica Cohick
	X	Stephanie Williams		Nathan Bard
	X	Jill Kurutz - IMTO		
Cooperating Agencies:	X	CAEDC – Janet Anderson		Public Safety – Mike Snyder
		Craig Jurgensen, Clean Air Board	X	CCHRA-Mary Kuna
		Conservation District		
Applicants/Guests:		Ted Tupper-Resident		

1. Agenda Modifications and Approval

None.

2. Public Comment

None.

3. Approval of Minutes

The June 19, 2025 meeting minutes were approved by unanimous vote on a motion by Ed Franco and seconded by Matt Fisher.

4. Action Items

Mechanicsburg Borough – Cumberland Plans Grant Supplement Request

Following the initial work on the 2025 Comprehensive Plan the selected consultant, Urban Research & Development Corporation, was unable to complete the project due to unforeseen and tragic medical issues. The planning process is about 50% complete and the Borough incurred expenses totaling $25,797.78. Of this, $10,000 was reimbursed from the County.

Over the past several months, the Borough has worked to identify a new consultant of completing the remaining work. After reviewing several potential consultants, the Borough selected Wallace Montgomery to continue the work and develop a completed plan. Wallace Montgomery has provided an estimated budget of **$40,000** for the completion of the work.

After expenses from the initial phase, the Borough has a remaining budget of **$13,592.22** which includes an unspent portion of the County Planning Grant ($10,000). To move forward, the Borough is requesting an **additional $14,000 from Cumberland County** which will be **matched by $14,000 from the Borough**, in order to fully fund the completion of the Comprehensive Plan.

ACTION: Kelly Palmer made a motion to recommend approval of the additional funds of $14,000 to Mechanicsburg Borough, George Tyson seconded. The vote was unanimous.

Dickinson Township – Agricultural Security Area – West Cumberland Partners

Dickinson Township submitted an application to add parcel 08-11-0292-001 located at N. Dickinson School Road to its ASA program. The parcel contains approximately 130.82 acres.

New ASA applicant parcels must be reviewed to assess their conformity with the evaluation criteria included in section §905 and §907 of the ASA Law.

ASA Evaluation Criteria	Consistent with ASA Criteria Y/N	Comments
§905(a) Size/Income The parcel shall be either 10 acres in size or have an anticipated yearly gross income of at least $2,000.	Y	• The parcel is 130.82 acres according to Cumberland County Property Mapper.
§907(a) Soils Land proposed for inclusion to the ASA program shall have soils that are conducive to agriculture. This factor shall be satisfied if at least 50% of the parcel contains Class 1-4 Soils.	Y	• The parcel is entirely in soil classes 1-4.
§907(a) Compatibility with Land Use Plans and Zoning Use of land proposed for inclusion in the ASA program shall be compatible with local government unit comprehensive plans. Zoning shall permit agriculture use but need not exclude other uses.	Y	• The parcel is located entirely in the Conservation character area of the County 2024 Future Land Use map. The Cumberland Principles from the Comprehensive Plan can be used to further examine inclusion of this parcel into the ASA. "Protect the Best First" recommends preservation of prime farmland. • The parcel is in the Primary Agriculture Area in the Township Future Land Use map. • The parcel is located within the Dickinson Township Agricultural zoning district.
§907(a) Viable for Agriculture Land proposed for inclusion into the ASA shall be viable agricultural land. Viable agricultural land is defined in the ASA law	Y	• The parcel is currently used for the commercial production of traditional row crops (corn, soybeans, wheat). • The surrounding area is predominantly agricultural

ASA Evaluation Criteria	Consistent with ASA Criteria Y/N	Comments
as *"land suitable for agricultural production and which will continue to be economically feasible for such use if real estate taxes, farm use restrictions, and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of urban and related nonagricultural development."*		and residential land uses. The farm is in proximity to a public school. • The parcel does not have access to public water and sewer, limiting potential for large scale non-ag development.
Additional Factors The proximity to other ASA/ACE's, extent and nature of farm improvements, anticipated trends in agricultural economic and technological conditions and any other matter which may be relevant may be considered in evaluating a proposal.	Y	• The parcel is adjacent to land preserved through the Cumberland County Agricultural Conservation Easement Purchase Program to the west and there are numerous preserved farms in close proximity. • Similarly, the parcel is adjacent to land enrolled in the ASA and in close proximity to numerous ASAs. Over 4,900 acres of farmland are currently enrolled in Dickinson Township's ASA program. • There are currently no improvements on this farm.

ACTION: Ed Franco made a motion to recommend approval of the addition of parcel 08-11-0292-001 located at North Dickinson School Road, to the ASA program for Dickinson Township, with consideration of staff comments, Matt Fisher seconded. The vote was unanimous.

Monroe Township – Zoning Ordinance Amendments

Monroe Township has proposed amendments to the zoning map to change certain properties from Conservation to Agricultural zoning districts and from Mixed Use to Agricultural zoning districts.

Comments and Recommendations:

1. The following parcels are shown as Conservation on the map but should be shown as Agricultural per the proposed submitted changes:
    a. Parcel 22-12-0348-011 (1380 Indian Peg Road)
    b. Parcel 22-12-0348-012 (1376 Indian Peg Road)
2. The following parcels are split between the different zoning districts and should be shown as entirely within one district.
    a. Parcel 22-11-0282-019 (1410 York Road with frontage on Church Street) – split between Mixed Use and Agricultural. Should be all Agricultural. Note this parcel was not included in the original list but was found during review.
    b. Parcel 22-12-0350-049 (R York Road) – flag lot with pole zoned Agricultural and rest of lot zoned Conservation.

c. Parcel 22-12-0350-057 (632 Lynes Road) – split between Agricultural and Conservation

d. Parcel 22-12-0350-081 (648 Lynes Road) – split between Agricultural and Conservation

ACTION: Fred Reddig made a motion to recommend approval of the zoning ordinance amendments to Monroe Township, with consideration of staff comments, Brandon Weary seconded. The vote was unanimous.

Land Partnerships Plan Review

Stephanie Williams provided the board with a draft copy of the Land Partnerships Plan, which is an affiliated plan to the Comprehensive Plan. Ms. Williams gave a presentation highlighting the Land Partnerships Plan. The document is the County's strategy for farmland preservation, natural resource protection and parks, trails and greenways. Discussion ensued regarding implementation and next-steps for stakeholders. The Plan will be presented to the Commissioners on August 6th and released for a 30-day public comment period. Plan adoption is expected to occur in September.

ACTION: Ed Franco made a motion to recommend approval of the Land Partnerships Plan to the Board of Commissioners, Kelly Palmer seconded. The vote was unanimous.

5. Informational Items

Consistency Letters

In June, the CCPD received 2 requests for letters of support:

- Lemoyne Borough – Memorial Park
- Shippensburg Township – Sidewalk Repairs along Walnut Bottom Road at Shippensburg Shopping Center

A copy of the letters was provided to the board.

Plans and Minor Amendments

Steve Hoffman noted there were 14 plans received in June. There were 6 ordinance amendment submissions in June. He also reviewed the growth trends dashboard that provides a one-page summary of plan activity.

An MPC Adoption Summary was provided to the board as a follow up to amendments that have been reviewed by CCPC.

2025 Planning Program Report

Kirk Stoner referred CCPC members to the written planning program report.

Commissioner Liaison Report

Commissioner Neiderer reported on the ongoing budget challenges. A key point was the expiration of the 911 funding. The P25 testing is still set for August. The strategic plan is in the beginning stages and the consultant will be meeting with county staff in the coming weeks. Judge Guido is resigning the end of 2025, so the president judge will transition to Jude Masland.

Coordinating Agency Reports

CAEDC – Janet Anderson reported that they received an announcement about the EPA Brownfield grants. They will work with CCPD to develop an inventory and get word out to municipalities. Funding will be available in the fall.

CCHRA – Mary Kuna reported their focus is on investing in public housing, including new roofs. They are also aggressive with the blighted property process, and there are several coming in the near future. There will be conservatorship opportunities throughout the county and some redevelopment projects towards the West Shore will take place in the next few months.

6. Other Business

None.

7. Adjournment:

On a motion from Fred Reddig, the meeting was adjourned at 9:06 am. Next meeting is August 21, 2025, at 7:30 am at 310 Allen Road.

Minutes Submitted By: CCPD Staff

Blighted Property Reinvestment Board

CUMBERLAND COUNTY

Property Referral and Certification Form

Local municipalities that are referring a property to the Cumberland County Blighted Properties Reinvestment Board must complete this form and provide additional information as requested.

Section I Property Information

Property address: 137 South East Street, Carlisle, PA 17013

Size and use of property: 1,048 SQFT

Property owner: Elizabeth E. Hill

Date of last known occupancy: 2/19/2020

Section II Blight Conditions Present

Provide details on all that may apply to the property.

Condition of Blight	Observed Property Conditions
1. Any premises which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with local housing, building, plumbing, fire and related codes.	Fire damaged home, structurally unsound.
2. Any premises which because of physical condition, use or occupancy is considered an attractive nuisance to children, including but not limited to, abandoned wells, shafts, basements, excavations, and unsafe fences or structures.	
3.Any dwelling which because it is dilapidated, unsanitary, unsafe, vermin invested, or lacking in the facilities and equipment required by the Housing Code of any municipality, has been designated by the department responsible for enforcement of the Code as unfit for human habitation.	The property has been unoccupied for four years, all utilities terminated 2/19/2020. No repairs made after major fire occured on this date.
4.Any structure which is a fire hazard, or is otherwise dangerous to the safety of persons or property.	Structure is a fire hazard if occupied. No smoke alarms/extinguishers.

Condition of Blight	Observed Property Conditions
5.Any structure from which the utilities, plumbing, heating, sewage, or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.	Water turned off by Borough of Carlisle in February 2020. Electricity terminated by PP&L in February 2020. Plumbing and electrical systems destroyed in fire.
6. Any vacant or unimproved lot or parcel of ground in a predominately built up neighborhood, which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin.	Rear of property has not been maintained and has accumulated litter in the high weeds.
7. Any property which is vacant, which has not been rehabilitated within one year of the receipt of notice to rehabilitate from a municipal code enforcement agency.	Property condemned by Code Official 2/19/2020.
8. Any abandoned property. A property shall be considered abandoned if: a. It is a vacant or unimproved lot or parcel of ground on which a municipal lien for the cost of demolition of any structure located on the property remains unpaid for a period of six months; b. It is a vacant property or vacant or unimproved lot or parcel of ground on which the total of municipal liens on the property for tax or any other type of claim of the municipality are in excess of 150% of the fair market value of the property as established by the Cumberland County Tax Assessment Office; or c. The property has been declared abandoned by the owner, including an estate that is in possession of the property.	

Section III Documented Code Violation and Municipal Action

In the following table, please document any municipal building, zoning, or property maintenance code violations for the subject property if a code enforcement report is not available. For each violation, document municipal enforcement actions and the result of those actions.

IF CODE ENFORCEMENT REPORT AVAILABLE, PLEASE ATTACH.

Code Violated ***(list code name and reference specific section violated)***	**Municipal Enforcement Action and Result** ***(include date)***
§108.1.1 Unsafe Structures	2/19/2020 - Violation & Condemnation - No progress by owner.
§305.1 Interior - General	1/24/24 - Violation &Condemnation - No progress by owner
§603.1 Mechanical Appliances	1/24/24 - Violation &Condemnation - No progress by owner
§604.1 Facilities Required	1/24/24 - Violation &Condemnation - No progress by owner

Section IV Municipal Contact Information and Certification

1. Name and title of person completing the application.
   Malcolm Marcewicz
2. Contact information for municipal staff assigned to this project.
   a. Office Phone: 717-240-6937
   b. Cell Phone: 717-226-8166
   c. Email: mmarcewicz@carlislepa.org

☒ By checking this box, I agree that all the information presented within this form is accurate and true to the best of my knowledge.

7/25/2024

Signature *Date*

Completed applications shall be submitted to:
Mikayla Kitchen, Assistant Director
Cumberland County Redevelopment Authority
mkitchen@cchra.com
717-249-0789 x172
114 N Hanover St.
Carlisle, PA 17013


Aug 7, 2024 at 12:42:28 PM
+40.198539, -77.183880
Carlisle

Blighted Property Reinvestment Board

CUMBERLAND COUNTY

Property Referral and Certification Form

Local municipalities that are referring a property to the Cumberland County Blighted Properties Reinvestment Board must complete this form and provide additional information as requested.

Section I Property Information

Property address: 156 South West Street, Carlisle, PA 17013

Size and use of property: 2,144 SQFT, Residential

Property owner: Katie J. Maxwell

Date of last known occupancy: Unknown, no occupancy for at least two years.

Section II Blight Conditions Present

Provide details on all that may apply to the property.

Condition of Blight	Observed Property Conditions
1. Any premises which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with local housing, building, plumbing, fire and related codes.	Property has rotting soffit and roof that has attracted squirrels and water to penetrate neighboring property, causing damage to 2nd story bathroom and attic. Window lintels are severly damaged and in a state of disrepair. Rear of property is not maintained, with weeds and grass growing in excess of three feet. Exterior paint is flaking from rotting wood, causing possible structural issues.
2. Any premises which because of physical condition, use or occupancy is considered an attractive nuisance to children, including but not limited to, abandoned wells, shafts, basements, excavations, and unsafe fences or structures.	
3.Any dwelling which because it is dilapidated, unsanitary, unsafe, vermin invested, or lacking in the facilities and equipment required by the Housing Code of any municipality, has been designated by the department responsible for enforcement of the Code as unfit for human habitation.	Due to the exterior of the building, failure to register as a rental property, and failure to correct exterior violations; Code Officials cannot verify this is a habitable dwelling.
4.Any structure which is a fire hazard, or is otherwise dangerous to the safety of persons or property.	Property has been unoccupied for at least two years, cannot verify hazards

Condition of Blight	Observed Property Conditions
5.Any structure from which the utilities, plumbing, heating, sewage, or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.	
6. Any vacant or unimproved lot or parcel of ground in a predominately built up neighborhood, which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin.	
7. Any property which is vacant, which has not been rehabilitated within one year of the receipt of notice to rehabilitate from a municipal code enforcement agency.	First violation notice was sent 6/6/2023, no repairs have been made. Property owner has been cited twice, with a third pending.
8. Any abandoned property. A property shall be considered abandoned if: a. It is a vacant or unimproved lot or parcel of ground on which a municipal lien for the cost of demolition of any structure located on the property remains unpaid for a period of six months; b. It is a vacant property or vacant or unimproved lot or parcel of ground on which the total of municipal liens on the property for tax or any other type of claim of the municipality are in excess of 150% of the fair market value of the property as established by the Cumberland County Tax Assessment Office; or c. The property has been declared abandoned by the owner, including an estate that is in possession of the property.	

Section III Documented Code Violation and Municipal Action

In the following table, please document any municipal building, zoning, or property maintenance code violations for the subject property if a code enforcement report is not available. For each violation, document municipal enforcement actions and the result of those actions.

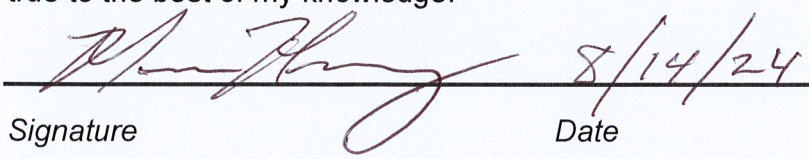
IF CODE ENFORCEMENT REPORT AVAILABLE, PLEASE ATTACH.

Code Violated *(list code name and reference specific section violated)*	**Municipal Enforcement Action and Result** *(include date)*
PM-302.4 Weeds / PM-304.1 Exterior Structure	Notice of Violation 6/6/23. No compliance
PM-302.4 Weeds / PM-304.1 Exterior Structure	Notice of Violation 7/20/23. No compliance
PM-302.4 Weeds / PM-304.1 Exterior Structure	Notice of Violation 7/16/24. No compliance
PM-302.4 Weeds / PM-304.1 Exterior Structure	Non-Traffic Citation 7/29/24, Non-Traffic Citation 8/5/24. No Compliance

Section IV Municipal Contact Information and Certification

1. Name and title of person completing the application.
   Malcolm Marcewicz, Chief Code Enforcement Officer, Assistant Zoning Officer, BCO
2. Contact information for municipal staff assigned to this project.
   a. Office Phone: 717-240-6937
   b. Cell Phone: 717-226-8166
   c. Email: mmarcewicz@carlislepa.org

☑ By checking this box, I agree that all the information presented within this form is accurate and true to the best of my knowledge.



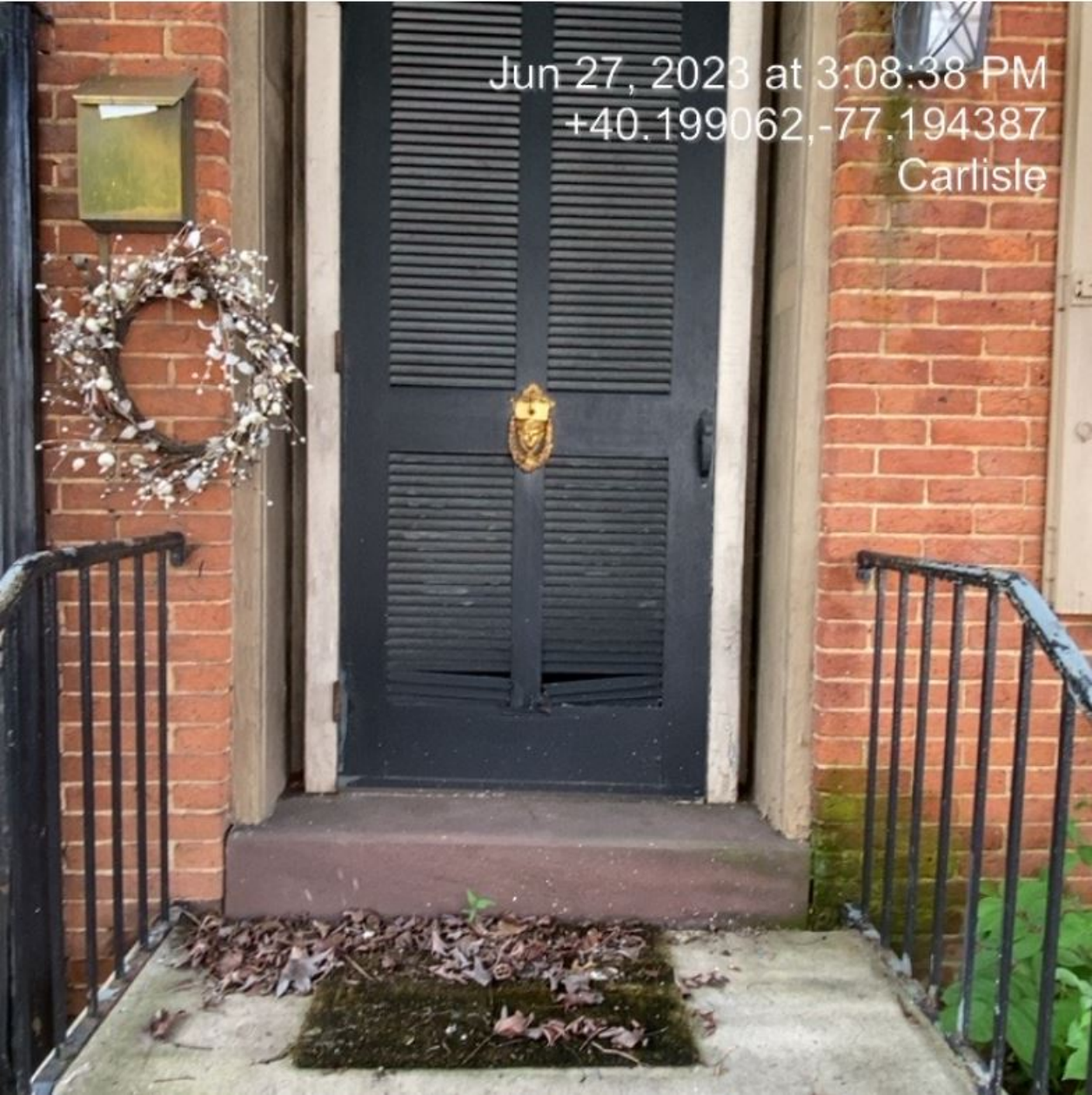
Signature 8/14/24 *Date*

Completed applications shall be submitted to:
Mikayla Kitchen, Assistant Director
Cumberland County Redevelopment Authority
mkitchen@cchra.com
717-249-0789 x172
114 N Hanover St.
Carlisle, PA 17013


Jun 6, 2023 at 8:41:54 AM
+40.198983,-77.194352
Carlisle


Jun 6, 2023 at 8:42:20 AM
+40.199024, -77.194246
Carlisle


Jun 27, 2023 at 3:08:22 PM
+40.199062, -77.194387
Carlisle


Jun 27, 2023 at 3:08:38 PM
+40.199062,-77.194387
Carlisle


Jun 27, 2023 at 3:09:38 PM
+40.199001, -77.194615
Carlisle


Oct 10, 2023 at 3:19:42 PM
+40.199087,-77.194223
Carlisle

PLANNING DEPARTMENT
Cumberland County

Cumberland County Review Report

Cumberland County Planning Department
310 Allen Road, Suite 101
Carlisle, PA 17013
Telephone: (717) 240-5362

Recommendation: Choose an item.

Name of Amendment:				
Rezone 8 Properties RC to CG				
Municipality:	*Date Received:*	*Date Reviewed:*	*Reviewed By:*	*Checked By:*
Hampden Township	8/8/2025	8/21/2025	SH, EG, KS	Planning Commission
Type of Amendment:				
Zoning Map Amendment				

Explanation of Amendment:

On August 2, 2016, Good Hope Ventures submitted a rezoning request. The rezoning was to change an area from residential country (RC) to commercial limited (CL). The CCPC determined that the rezoning was consistent with the comprehensive plans and recommended approval of the rezoning after consideration of comments.

On July 23, 2024, Good Hope Ventures submitted an application to rezone the same area from residential country (RC) to commercial park limited (CPL). This application was withdrawn prior to the August 15, 2024, CCPC meeting.

On August 8, 2025, Good Hope Ventures submitted a curative amendment challenging the validity of the Hampden Township zoning ordinance. The applicant proposes to rezone the same area from residential country (RC) to commercial general (CG) to cure the following alleged defects of the ordinance:

- **Reverse Spot Zoning**: This occurs when an 'island' develops because of a municipality's failure to rezone. The zoning should be in conformance with similar surrounding parcels. The applicant is claiming that the study area (shown below) is being treated differently than other similar parcels in the township. The zoning designation prevents the reasonable use of the property which makes the ordinance invalid.

  The study area is similar to parcels located on the east side of Good Hope Road which are currently in the CG district. These parcels are similar as they also have frontage along Good Hope Road and Wertzville Road.

  Surrounding properties in the RC district are not located in proximity to public sewer / water, highways, and commercial uses.

- **Arbitrary and Irrational Zoning**: The RC district requires the study area to be developed for low density residential use, or agriculture. The shape, size and location are not suitable for this type of development.

- **Confiscatory Zoning**: Because of the configuration of the properties and the proximity to institutional and commercial uses, the properties are not suitable for any use permitted in the RC district. The RC district requirements deprive the landowner of the beneficial use of the property.

The parcel information is shown on the table below. According to the tax assessment records, the rezoning includes a total of 7.67 acres.

Owner Name	Address	Parcel Number	Acreage
STONER, STEPHEN M & KIM A	5195 WERTZVILLE ROAD	10-14-0840-043A	0.92
STONER, STEPHEN M & KIM A	WERTZVILLE ROAD	10-14-0840-043	0.45
STONER, STEPHEN M & KIM A	WERTZVILLE ROAD	10-14-0840-043C	0.47
PALUSCIO, JOHN S (care of SUSAN K MILLER)	5165 WERTZVILLE ROAD	10-14-0840-043B	0.44
PALUSCIO, JOHN S	WERTZVILLE ROAD	10-14-0840-001	0.62
GOOD HOPE VENTURES I, LP	2055 GOOD HOPE ROAD	10-14-0840-021A	1.28
VANLEEUWEN, DAVID	2053 GOOD HOPE ROAD	10-14-0840-021	2.17
GOOD HOPE VENTURES I LP	2045 GOOD HOPE ROAD	10-14-0840-020	1.32

The most recent rezoning request is located west of the Wertzville Road interchange off Interstate 81 (see aerial photo below). The character of the area is residential west of Good Hope Road and commercial east of Good Hope Road. Public sewer and public water are available.



Consistency:

Cumberland County Comprehensive Plan

The subject parcels are in the suburban character area. This area will accommodate most of the county's future growth given available land, infrastructure and strategic locations. Development patterns in the suburban character area may transition to higher density mixed use communities.

The 2024 Cumberland County Comprehensive Plan[1] is organized around the Cumberland Principles. These principles guide effective planning practices which benefit the environment, economic development, and the community. The following table determines consistency between the proposed amendment and the Cumberland Principles.

The Cumberland Principles (Comprehensive plan page number)	**Consistency Determination**
Protect the Best First (page 20)	The proposed rezoning includes land that is occupied by residential dwelling units. Sensitive features including agriculture, open space and wetlands will not be impacted.

[1] https://www.cumberlandcountypa.gov/4888/Comprehensive-Plan

The Cumberland Principles (Comprehensive plan page number)	Consistency Determination
Grow In Not Out (page 29)	The area is in proximity to an Interstate 81 interchange and currently served by public sewer and public water. The parcels are in an area where development should be expected and encouraged.
Plan for People and Places (page 44)	Residential land uses currently occupy the study area and the areas to the north, south and west. Building design, setbacks, lighting limitations, screening, noise restrictions, and buffering are necessary to increase compatibility of commercial uses with surrounding residential uses.
Expand Transportation Choices (page 52)	• The parcels have exceptional highway access adjacent to PA 944 and a nearby I-81 interchange. • Access to the area is available could be accomplished via a 4-way intersection at Woodland Drive and Good Hope Road. Depending on the proposed use, a traffic signal may be required by PennDOT. • Left turns onto Wertzville Road may create congestion. A right-in-right-out access may be required on Wertzville Road.
Open for Business (page 71)	The proximity to an Interstate 81 interchange makes this an ideal location for commercial service activities.

Hampden Township Comprehensive Plan

The subject parcels are shown as commercial in the 2015 Hampden Township Comprehensive Plan (Future Land Use Map page 67). The township's comprehensive plan recommends establishing low level commercial developments in areas that adjoin low density residential areas. Commercial uses should be compatible with residential, and office uses. Standards to be considered should include screened parking lots, parking areas to the rear of buildings, lighting controls and screened dumpsters (page 83).

Comments and Recommendations:

1. The Pennsylvania Municipalities Planning Code (MPC section 609.1.c) indicates that municipalities should consider the following when reviewing a landowner curative amendment:

MPC section 609.1.c: Municipality should consider the following	CCPC Comments:
The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.	The study area is located in an area that is served by public water and public sewer. The study area is in proximity to the Wertzville Road Interchange on Interstate 81 and is subject to high volumes of traffic. Permissible uses in the proposed CG district will have no impacts on schools.
If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the	The RC zoning district permits low density housing. If approved, the proposed rezoning to CG does not permit residential development.

MPC section 609.1.c: Municipality should consider the following	CCPC Comments:
challenged provisions of the ordinance or map.	
The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features.	These factors do not apply as the site does not include these sensitive features. Further, the site is currently developed with existing residential dwelling units.
The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.	
The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.	

2. In 2016, the township received a request to rezone this area to commercial limited (CL). In 2024, the township received a request to rezone the area to commercial park limited (CPL). Most recently, in 2025, the township has received a curative amendment to rezone to commercial general (CG) (see 'explanation of amendment' on page 1).

   According to MPC section 609.1.c, the township may adopt an alternative amendment that will cure the challenged zoning ordinance language. The township should consider the purpose statements and the permitted uses in each zoning district and determine which zoning district suits the proposed uses shown on the plan (retail and convenience store), the characteristics of the area, and the surrounding residential developments.

   The maintenance of the subject parcels in the RC district, which prioritizes open space and agricultural use and low density residential development without public services or facilities, is not consistent with commercial development that has occurred in the general vicinity. The character of the area is supportive of mixed use that is compatible with residential use. The RC district does not permit principal commercial uses.

   The CG district permits a wide range of nonresidential uses that may impact the neighboring residences. The purpose statement in the CG district indicates this district is for development of commercial uses where such uses already exist. The purpose statement makes no references to compatibility with surrounding residences, nor is residential development permitted in the zone.

   The township should consider rezoning the property to the Commercial Limited District (CL) or Commercial Park Limited (CPL). The purpose statements for these districts of the CL district expressly states that commercial uses should be "intermingled harmoniously" with and not have "harmful effects" on surrounding residences. Similar consideration of adjacent residential uses is notably absent from the CG purpose statement.

Residential County (RC) District	**Purpose Statement:** The purpose of the R-C, Residential-Country District is to protect and stabilize the natural resources of these designated areas; to conserve the land for a combination of agricultural and horticultural uses; to promote and encourage a safe and healthful environment for family life; to preserve open space; and to permit low density residential development which will not require extensive public services or facilities and to otherwise create conditions conducive to carrying out these and other broad purposes of this Chapter.
Commercial General (CG) District	**Purpose Statement:** The purpose of the C-G, Commercial-General District is to provide reasonable standards for the development of commercial uses in areas where such uses already exist and where the development of commercial uses is feasible. These commercial uses would include shopping centers. The standards of this district are designed to minimize traffic congestion on the streets, provide for the public convenience and fulfill the other broad purposes of this Chapter.
Commercial Limited (CL) District	**Purpose Statement:** The purpose of the C-L, Commercial-Limited District is to provide appropriate locations for office, limited commercial and residential usage where a proliferation of unrestricted commercial usage would be undesirable. The regulations which apply within the district are designed to encourage the formation and continuation of a quiet, compatible and uncongested environment for business and professional offices intermingled harmoniously with existing residences and certain other commercial uses; to discourage any encroachment by unrestricted commercial or industrial establishments, or other uses which might adversely affect the specialized office, limited commercial and residential character of the district; to reduce existing problems of traffic congestion; and to encourage orderly, well-planned development within this district.
Commercial Park Limited (CPL) District	**Purpose Statement:** The purpose of the C-PL, Commercial Park Limited District is to provide reasonable standards for the development of commercial uses located adjacent to office and residential uses without undue harmful effects; this district is intended to be limited to uses which cause minimal air pollution, noise, glare and fire and safety hazards; to provide for the public convenience; to minimize traffic congestion; and to fulfill the other broad purposes of this Chapter.

Hampden Township Commercial Zoning Comparison			
Use	*CG district*	*CL district*	*CPL district*
Dwelling in existence prior to the zoning ordinance	Right	Right	
Child day care	Right	Right	Right
Private nursery	Right	Right	Right
Kindergarten	Right	Right	Right
Public utilities and facilities	Right	Right	Right
Wireless communication facilities	Right	Right	Right
Municipal buildings and uses	Right	Right	Right
Theaters	Right	Right	
Assembly halls	Right	Right	

Hampden Township Commercial Zoning Comparison			
Use	*CG district*	*CL district*	*CPL district*
Place of amusement	Right	Right	
Commercial recreation	Right	Right	Right
Shopping centers and shopping mall			Right
Public and semipublic uses (church, school)	Right	Right	
Office and professional office	Right	Right	Right
Office complex			Right
Medical and dental clinic	Right	Right	Right
Banks and finance	Right	Right	Right
Personal services (barber, beauty, shoemaking)	Right	Right	Right
Professional services	Right	Right	
Retail drug store	Right	Right	Right
Food sales	Right	Right	Right
Wearing apparel	Right	Right	Right
Auto sales and service			Right
Home appliance sales and service			Right
Department store	Right		Right
Dry goods and notion store	Right	Right	
Professional service			Right
Furniture sales	Right	Right	Right
Studios	Right	Right	
Paint	Right	Right	
Paperhanging and glass	Right	Right	
Laundry, dry cleaning or dyeing	Right		
Tailoring	Right		
Service establishment	Right		Right
Laundry agencies	Right	Right	Right
Self-service laundries	Right	Right	Right
Hand laundries	Right		Right
Convenience store (with gas)	Right		Right
Convenience store (without gas)	Right		Right
Convenience store with or without gas (limitations noted below)		Right	
Undertaking parlor and funeral home	Right	Right	
Studio for music, art, science, radio and television	Right	Right	
Dry cleaning, pressing, tailoring shops	Right	Right	
Restaurant			Right
Restaurants, café offering in car and drive in	Right		
Restaurants, café without in car and drive in	Right	Right	
Bakery, candy	Right	Right	
Hotel and motel	Right	Right	Right
Private school	Right	Right	
Florist and nursery	Right		
Public or private garage	Right		
Motor vehicle repair	Right		
Truck washing	Right		

Hampden Township Commercial Zoning Comparison			
Use	*CG district*	*CL district*	*CPL district*
Vehicle body shop	Right		
Motor vehicle and mobile home sales	Right		
Motor vehicle and trailer sales lot	Right		
Kennels	Right	Right	
Animal hospital	Right	Right	
Pet shop	Right	Right	
Railway or bus station	Right		
Retailing of building supplies and lumber yard	Right		
Self-service storage	Right	Right	
Under 21 club	Right		
Accessory use	Right	Right	Right
Home improvement showroom and office including inventory		Right	
Adult day care	Right	Right	Right
Residential solar	Right	Right	
Nonresidential solar	Right	Right	Right
Brewpub	Right	Right	Right
Microbrewery	Right	Right	Right
Medical marijuana dispensary	Right	Right	Right
Adult oriented business	Right		
Multi-vendor open air market	Conditional use		
Multi-vendor indoor market	Conditional use	Conditional use	Conditional use
Medical clinics-limited	Conditional use	Conditional use	Conditional use
Senior housing		Conditional use	
Laboratories			Right
Hospitals			Right
Medical building			Right
Pharmacy in a medical clinic or building			Right
Church			Conditional use
Place of worship			Conditional use
Parish house			Conditional use
Convent			Conditional use
School			Conditional use
Library			Conditional use
Museum			Conditional use
Mechanical contractor			Conditional use
Electrical contractor			Conditional use
Contractors/lawn and garden equipment sale and service			Conditional use

Convenience stores in the CL district are subject to the following requirements:

1. The lot on which the convenience store is located shall have a minimum lot area of three acres and front on and have direct access to at least two arterial streets.
2. No more than 12 fuel dispensing positions shall be permitted.
3. The use shall not include any motor vehicle repair facility, car wash, motor vehicle body shop, motor vehicle or mobile home sales garage or motor vehicle or trailer sales, tractor-trailer fueling, or, as regulated by the Pennsylvania Gaming Control Board, slot machines, interactive gaming or video gaming terminals.

4. The maximum height of fuel canopy structures, as measured between the average elevation of the proposed finished grade and the highest point of the canopy, shall be 24 feet.
5. Lighting for fueling canopy structures shall be recessed so that the bottom of any lighting fixture is flush with the underside of the fueling canopy structure, using a full cutoff flat lens luminaire.
6. Along street frontages where a buffer yard is not required under the provisions of Part 13, § 1310, a planting strip of not less than 15 feet in width shall be provided. Such planting strips shall include a mixture of trees and shrubs, with trees planted at a minimum interval of every 25 feet of street frontage and may include a decorative fence.
7. "In-car," "drive-in" or service outside the building (e.g., drive-through) shall be permitted as an accessory use provided that such service is limited to the retail sale of goods sold on the premises, including foodstuffs and beverages.
8. Sidewalks shall be installed along all street frontages adjoining the site, and from each such sidewalk on each such street frontage, a pedestrian way or path shall be a designated by line painting or other appropriate material so as to provide safe and convenient access from the sidewalk to the building's entrance. In addition, pedestrian crosswalks shall be provided at adjoining street intersections to provide safe pedestrian street crossings to and from the site.
9. Fuel dispensing facilities and electric vehicle charging stations shall be designed such that they will not accommodate larger trucks that require a commercial driver's license to operate.

3. The township should consider access and roadway improvements that may reduce traffic congestion including a traffic signal at Good Hope Road and Woodland Drive and a “right-in right-out” access to Wertzville Road.
    a. In 2022, PennDOT conducted a traffic count on Wertzville Road between Good Hope Road and the Interstate 81 ramps. In 24 hours, the roadway had 18,495 vehicles, 8.9% of which were trucks.
    b. In 2019, PennDOT conducted a traffic count on Good Hope Road 0.6 miles south of Wertzville Road. In 24 hours, the roadway had 5,037 vehicles, 2.4% of which were trucks.
4. CCPC recommends the township to work with the applicant and affected property owners to implement additional development compatibility standards enhanced buffering, screening and site design. See subdivision and land development ordinance, part 5 of the code of ordinances for more details on design standards.
5. The applicant’s information package includes mapping and references to the 2017 Cumberland County Comprehensive Plan. The information should be updated with new mapping and references to the 2024 Cumberland County Comprehensive Plan.
6. The township should consider updating the Comprehensive Plan. The existing plan was adopted in 2015. Growth trends and land uses change quickly in Hampden Township and a current plan is needed to guide development.

“Section 505 (b) and 609 (g) of the Municipalities Planning Code requires that amendments to municipal ordinances be filed with the county planning agency. If this amendment is approved, please forward a final copy to the county planning office so we may update our records.”

DAWOOD
ENGINEERS ► PLANNERS ► SURVEYORS

January 3, 2025

HAMPDEN TOWNSHIP
209 South Sporting Hill Road
Mechanicsburg, PA 17050

Attn: Mr. Keith Metts, Township Manager

Re: **Request for Curative Amendment**

Dear Mr. Metts,

On behalf of Good Hope Ventures GH, LP, I am submitting a Request for Rezoning for eight properties located southwest of the intersection of Good Hope Road/Wertzville Road from Residential-County (R-C) to Commercial General (C-G).

Enclosed are twelve (12) copies of the submission package with a check for $1,700.00 payable to Hampden Township for the processing fee.

The submission package includes the following information:

- Request for Rezoning Application
- Petition for Rezoning
- Attachment 8: Township Zoning Map
- Attachment 9: Plan entitled “Hampden Shoppes at Good Hope” dated December 17, 2024
- Rezoning Amendment Ordinance

If you have any questions, please reach out to our counsel, Neil Andrew Stein, Esq., at (610) 941-2469.

Sincerely,

Bony R. Dawood, P.E.
President
Dawood Engineering, Inc.

cc: Ryan M. Colquhoun, Esq.
Neil Andrew Stein, Esq.

REQUEST FOR REZONING

Hampden Township
209 South Sporting Hill Rd.
Mechanicsburg, PA 17050
Phone 717-761-0119 Fax 717-761-7267

NAME OF APPLICANT: Good Hope Ventures GH, LP

ADDRESS: 1926 Good Hope Road, Suite 400, Enola, PA 17025 PHONE: 717-877-0751

COUNSEL (if applicable): Neil Andrew Stein, Principal, Kaplin & Stewart

ADDRESS: 910 Harvest Drive, Box 3037, Blue Bell, Pennsylvania 19422 PHONE: 610-941-2469

Provide a detailed description of the Property(ies) to be rezoned including **parcel number(s), address(es) and ownership** of each tax parcel included in this petition.

Please see the attached table.

The subject property is currently situated in a Residential Country (R-C) Zoning District.

PLEASE NOTE: The Pennsylvania Municipalities Planning Code under Article VI- Zoning, Section 603, Ordinance Provisions requires the following: "If a municipality amends its zoning ordinance in a manner not generally consistent with its comprehensive plan, it shall concurrently amend its comprehensive plan in accordance with Article III "(Comprehensive Plan). A municipality may amend its comprehensive plan at any time, provided that the comprehensive plan remains generally consistent with the county comprehensive plan and compatible with the comprehensive plans of abutting municipalities. It may be advisable to seek legal advice as to an opinion whether or not the proposed rezoning request is generally consistent with the comprehensive plan. Please be guided accordingly.

Zoning District applicant proposes: Commercial General (C-G)

This application must be accompanied by:

1. A petition requesting that the area be rezoned. This petition should include the names, addresses and signatures of all affected property owners within the area requested for rezoning, as well as the current zone(s), the requested zone, and the boundary limits of the request.
2. A $1700.00 processing fee, payable to Hampden Township.
3. Ten (10) copies of a map of the area to be rezoned, with clearly defined boundaries.

Neil Andrew Stein, Esquire — December 27, 2024

Applicant's signature — Attorney for Landowner — Date

DO NOT WRITE BELOW THIS LINE-OFFICE USE ONLY

Date Received: _____ File No. _____

Fee Paid: _____

BEFORE THE BOARD OF SUPERVISORS OF
HAMPDEN TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA

CHALLENGE TO THE SUBSTANTIVE VALIDITY OF THE HAMPDEN ZONING ORDINANCE AND REQUEST FOR CURATIVE AMENDMENT PURSUANT TO SECTIONS 609.1 AND 916.1 OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE

GOOD HOPE VENTURES I, LP, as legal owner, and **GOOD HOPE VENTURES GH LP**, as equitable owner (collectively, **"Landowner"**), of the properties located in Hampden Township, Cumberland County, Pennsylvania ("**Township**") as listed in **Exhibit "1"** and as depicted on the survey attached hereto as **Exhibit "2"** (the "**Properties**"), by and through its attorneys, Kaplin, Stewart, Meloff, Reiter & Stein, P.C., hereby challenge the substantive validity of the Hampden Township Zoning Ordinance (**"Zoning Ordinance"**) and request the adoption of a curative amendment pursuant to Sections 609.1 and 916.1 of the Pennsylvania Municipalities Planning Code ("**MPC**"), and in support thereof aver as follows:

BACKGROUND

1. Pursuant to a deed dated December 14, 2009, a copy of which is attached hereto as **Exhibit "3"**, Landowner is the legal owner of the property located at 2055 Good Hope Road (Tax Parcel #10-14-0840-02A) in Hampden Township ("**Township**"), Montgomery County, PA.

2. Pursuant to a deed dated May 19, 2011, a copy of which is attached hereto as **Exhibit "4"**, Landowner is the legal owner of the property located at 2045 Good Hope Road (Tax Parcel #10-14-0840-020) in the Township.

3. Pursuant to Agreement of Sale dated April 11, 2023 with John S. Paluscio & Susan K. Miller, attached hereto as **Exhibit "5"**, the Landowner is the equitable owner of the properties known as 5165 Wertzville Road and the adjacent corner parcel (Parcels #10-14-0840-043B and #10-14-0840-001).

4. Pursuant to Agreement of Sale dated August 2, 2024 with David Van Leeuwen, attached hereto as **Exhibit "6"**, the Landowner is the equitable owner of the property known as 2053 Good Hope Road (Parcel #10-14-0840-021).

5. Pursuant to Agreement of Sale dated August 8, 2024 with Stephen M. Stoner, attached hereto as **Exhibit "7"**, the Landowner is the equitable owner of the property known as 5195 Wertzville Road (Parcels #10-14-0840-043C, #10-14-0840-043 and #10-14-0840-043A).

6. The Properties are all located at or near the heavily traveled intersection of Good Hope Road (SR 1013) and Wertzville Road (SR 0944).

7. The Properties, containing approximately 7.27 acres in the aggregate, are all located in the Township's Residential-Country zoning district ("**RC District**"), as depicted on the Township's Zoning Map attached hereto as **Exhibit "8"** ("**Zoning Map**").

8. In accordance with Section 602 of the Township Zoning Code ("**Code**"), the RC District permits the following uses:

A. Single-family, detached dwellings.

B. Family day care home.

C. Public utilities and facilities.

D. Municipal buildings and/or uses.

E. Public parks, playgrounds and open spaces.

F. Agriculture, horticulture, truck gardening, riding academies, public and private stables.

G. No-impact home-based business.

H. Open space development pursuant to § 1820 of this Chapter.

I. Accessory uses on the same lot and customarily incidental to any of the permitted uses.

J. Wind turbines permitted by special exception.

K. Outdoor wood-fired boilers in accordance with the provisions of Section 1725.

L. Residential solar energy system.

M. Wireless (WCF) pursuant to Chapter 27, § 1818 et seq.

9. In accordance with Section 603 of the Zoning Code, the RC District permits the following uses by conditional use:

A. Churches or similar places of worship, parish houses and convents and cemeteries.

B. Schools, libraries and museums.

10. Section 601 of the Zoning Code describes the purpose of the CR District:

> **Sec. 601. Purpose.**
> The purpose of the R-C, Residential-Country District is to protect and stabilize the natural resources of these designated areas; to conserve the land for a combination of agricultural and horticultural uses; to promote and encourage a safe and healthful environment for family life; to preserve open space; and to permit low density residential development which will not require extensive public services or facilities and to otherwise create conditions conducive to carrying out these and other broad purposes of this Chapter.

11. The primary purposes of the CR District are the promotion of agricultural and horticultural uses, and low density residential development.

12. The Township is a growing, vibrant community in the path of development. The presence of Interstate 81 provides ease of access to employment and government centers in Harrisburg and York, which has contributed to the Township's evolution for residential and commercial uses, which is expected to continue well into the future.

THE COMPREHENSIVE PLAN

13. To prepare for future development, the Township completed an update to its Comprehensive Plan in 2015. The Comprehensive Plan (Ch. 2 Land Use Categories) outlines standards for future commercial land uses as follows:

- Discourage strip commercial development and encourage planned clusters of commercial development that are attractively designed, landscaped and buffered from more restrictive areas.

- New commercial areas should be limited to areas with direct access to major thoroughfares.

- Provide an opportunity for a mix of business and residential uses to develop in appropriate locations that encourage economic viability and improve traffic circulation and aesthetics of commercial corridors.

14. The Future Land Use Plan designates the properties southwest of the intersection of Good Hope Road and Wertzville Road as appropriate for commercial development.

15. The Future Land Use Plan recognizes that commercial and retail services will be necessary to support the surrounding business and residential areas.

THE PROPERTIES

16. The Properties are served by public water and public sewer.

17. The Properties are served by road infrastructure that which was recently improved as part of the construction of the Penn State Health Hampden Medical Center.

18. Other parcels at the intersection reflect more appropriate commercial zoning. The properties immediately across Good Hope Road are zoned Commercial General, while the parcels to the northeast are zoned Office Park.

19. While the land immediately across Wertzville Road from the Properties is within the RC District, this land is part of the common open space for Wentworth Estates and therefore cannot be used for commercial purposes.

20. The Properties are not suited for residential development. The Properties contain homes which are generally older, many of which have been abandoned, and all of which were constructed well before the development of the northern end of the Township as a residential, office and medical hub.

21. Due to the widening of Wertzville Road, full movement residential driveways are inappropriate, and the current driveways constitute safety hazards. While an access road serving the Properties could be installed at Good Hope Road, backyards would face Wertzville Road, which is highly undesirable. Major intersections are not conducive to residential development.

22. As set forth in the following Counts of this Challenge, Landowner believes that the RC District zoning of the Properties constitutes impermissible spot zoning, is confiscatory, arbitrary and irrational, prevents the reasonable use of the Properties, and is therefore substantively invalid.

23. The Properties are being treated differently than other similar-situated parcels in the Township. A review of other major intersections in the Township reveals that when arterial roads meet, the Township has generally moved away from residential zoning:

- Wertzville Road and Valley Road/Technology Parkway: CP-L and O-P
- Sporting Hill Road and Carlisle Pike: C-L
- Sporting Hill Road and Trindle Road: C-L and A-O-L
- Sheely Lane and Simpson Ferry Road: C-G and C-L
- Lambs Gap Road/Salem Church Road and Carlisle Pike: C-G

24. At many of the above intersections, the commercial zones are limited to properties fronting the intersection, which are directly adjacent to residential zones.

25. Over time, other developers have investigated possible residential uses for the Properties. However, there is a consensus among developers that the Properties are not well-suited for residential development, due to access limitations, as well as the growth of office uses in this area of the Township.

PROPOSED CURATIVE AMENDMENT

26. In order to cure the invalidity of the zoning of the Property, Landowner seeks a curative amendment rezoning the Property to the Commercial-General District (the "**CG District**") so that it can be developed for retail and convenience uses, including a convenience store with gas fueling station, and a multi-tenant retail building ("**Proposed Development**"). The Proposed Development is depicted on a plan entitled "Hampden Shoppes at Good Hope" dated December 17, 2024 (the **"Challenge Plan"**) attached hereto as **Exhibit "9"**.

27. A copy of Landowner's proposed curative amendment to the Zoning Map is attached hereto and made part hereof as **Exhibit "10"** ("**Proposed Curative Amendment**").

28. The Challenge Plan depicts driveways from both Wertzville Road and Good Hope Road.

29. As depicted on the Challenge Plan, the Proposed Development Complies with all of the applicable area and bulk requirements of the CG District, e.g., minimum lot size, maximum impervious coverage, building coverage, building setbacks, building height, and required off-street parking facilities.

COUNT I
REVERSE SPOT ZONING

30. Paragraphs 1 through 29 above are hereby incorporated by reference as though fully set forth herein.

31. The Properties have been singled out for disparate treatment. "Reverse spot zoning occurs where an 'island' develops as a result of a municipality's failure to rezone a portion of land to bring it into conformance with similar surrounding parcels that are indistinguishable." In re Realen Valley Forge Greenes Assocs., 576 Pa. 115, 133–34, 838 A.2d 718, 729 (2003).

32. There is no legitimate police power justification to single out the Properties for different treatment from the abutting properties, in that:

A. The lands with which these properties are most similar to are the parcels across Good Hope Road that are currently located in the CG District. Those properties also have frontage along Good Hope and Wertzville Roads.

B. Both the Board and the County have previously recognized this congruity by identifying both sets of parcels as commercial on the future land use maps of their respective comprehensive plans.

C. The Properties are different from surrounding properties located in the RC District. All of the surrounding RC District properties are either not situated on the corner of two arterial roadways, or in the case of the lands at northwest corner, constitute undevelopable open space for an existing residential community.

D. The character of the Properties is separate and distinct from that of the other RC District properties in the area. The Properties are similar to the abutting properties in terms of topography, proximity to highways, and proximity to commercial uses and access to public sewer and water.

33. The RC District zoning designation of the Properties constitutes unconstitutional spot zoning.

COUNT II
ARBITRARY AND IRRATIONAL ZONING

34. Paragraphs 1 through 33 above are hereby incorporated by reference as though fully set forth herein.

35. The Zoning Code's RC District regulations effectively require that the Properties be developed for low density residential use or be devoted to agricultural or horticultural use.

36. Given the shape of the Properties, their size and location, the Properties are not suitable for development in accordance with the RC District regulations.

37. The RC District zoning of the Properties has no relationship to rational planning or zoning purposes considering the adjoining zoning and land uses.

38. The restrictions on the use of the Properties are greater than necessary for the protection of the public health, safety and welfare, are unduly restrictive, and prevent the reasonable use and development of the Properties.

39. The singling out of the Properties for different treatment than surrounding properties is unnecessary, arbitrary and irrational.

COUNT III
CONFISCATORY ZONING

40. Paragraphs 1 through 39 above are hereby incorporated by reference as though fully set forth at length herein.

41. Because of the unique configuration of the Properties, and their proximity to the institutional and commercial uses in the vicinity, the Properties are not suitable and cannot feasibly be developed for any purpose permitted in the RC District.

42. The RC District zoning of the Properties deprives the Landowner of the beneficial use and enjoyment of the Properties.

43. The RC District zoning of the Properties is confiscatory and constitutes a taking without just compensation, in violation of the Fifth and Fourteenth Amendments to the United States Constitution.

44. For all of the foregoing reasons, Landowner respectfully requests that the Zoning Map be amended to cure the present spot-zoning of the Properties by rezoning the Properties to the CG District, by adopting the Proposed Curative Amendment.

Respectfully submitted,
KAPLIN STEWART MELOFF REITER & STEIN, P.C.

By:_____
NEIL ANDREW STEIN, ESQUIRE
Attorneys for Landowner

EXHIBIT LIST

Exhibit "1"	-	Property Ownership List
Exhibit "2"	-	Survey Plan
Exhibit "3"	-	Deed dated December 14, 2009 for property located at 2055 Good Hope Road (Tax Parcel #10-14-0840-02A)
Exhibit "4"	-	Deed dated May 19, 2011 for property located at 2045 Good Hope Road (Tax Parcel #10-14-0840-020)
Exhibit "5"	-	Agreement of Sale dated April 11, 2023 with John S. Paluscio & Susan K. Miller for 5165 Wertzville Road and the adjacent corner parcel (Parcels #10-14-0840-043B and #10-14-0840-001)
Exhibit "6"	-	Agreement of Sale dated August 2, 2024 with David Van Leeuwen, for property known as 2053 Good Hope Road (Parcel #10-14-0840-021)
Exhibit "7"	-	Agreement of Sale dated August 8, 2024 with Stephen M. Stoner, for property known as 5195 Wertzville Road (Parcels #10-14-0840-043C, #10-14-0840-043 and #10-14-0840-043A)
Exhibit "8"	-	Township Zoning Map
Exhibit "9"	-	Plan entitled "Hampden Shoppes at Good Hope" dated December 17, 2024
Exhibit "10"	-	Proposed Curative Amendment

EXHIBIT "1"
PROPERTIES LEGALLY AND EQUITABLY OWNED BY GOOD HOPE VENTURES GH LP

Parcel ID	Address	Owner
10-14-0840-020	2045 Good Hope Road	Good Hope Ventures I, LP
10-14-0840-021A	2055 Good Hope Road	Good Hope Ventures I, LP
10-14-0840-021	2053 Good Hope Road	David Van Leeuwen *
10-14-0840-043C	5195 Good Hope Road	Stephen M. Stoner & Kim A. Stoner *
10-14-0840-043	5195 Wertzville Road	Stephen M. Stoner & Kim A. Stoner *
10-14-0840-043A	5195 Wertzville Road	Stephen M. Stoner & Kim A. Stoner *
10-14-0840-043B	5165 Wertzville Road	John S. Paluscio & Susan K. Miller *
10-14-0840-001	Wertzville Road	John S. Paluscio *

* Good Hope Ventures I, LP is the equitable owner pursuant to Agreement of Sale.

EXHIBIT "2"
ATTACHED

EXISTING CONDITIONS PLAN
FOR
HAMPDEN SHOPPES AT GOOD HOPE
HAMPDEN TOWNSHIP, CUMBERLAND COUNTY, PA
DECEMBER 17, 2024

NORTH



LOCATION MAP
SCALE: 1" = 1,000'

ZONING DATA
PROPERTY ZONED= CG-COMMERCIAL GENERAL
MINIMUM LOT AREA= 10,000 SF
MINIMUM LOT WIDTH – 100'
FRONT YARD= 35'
REAR YARD= 30'
SIDE YARD=10'
PUBLIC WATER AND SEWER
MAXIMUM IMPERVIOUS COVERAGE=75%
MAXIMUM BUILDING HEIGHT= 40'

SITE DATA
TOTAL SITE AREA= 7.274 ACRES

WERTZVILLE ROAD

N/F
Stephen M. Stoner & Kim A. Stoner,
Husband and Wife
Tax Parcel 10-14-0840-043A
DB G36, Pg. 221
PB 31, Pg. 53, P.O. Lot No's. 6 & 7

N/F
Stephen M. Stoner and Kim A. Stoner, Husband and Wife
Tax Parcel 10-14-0840-043 /
DB 262, Pg. 965
PB 7, Pg. 20, P.O. Lot No. 8

N/F
Stephen M. Stoner and Kim A. Stoner
Tax Parcel 10-14-0840-043C
DB 260, Pg. 2924

N/F
John S. Paluscio
& Susan K. Miller
Tax Parcel 10-14-0840-043B
DB 175, Pg. 617
PB 7, Pg. 20, Lot No. 10

N/F
John S. Paluscio
Tax Parcel
10-14-0840-001
DB 128, Pg. 416

N/F
Good Hope Ventures, LP
Tax Parcel 10-14-0840-021A
DB 200941914
PB 47, Pg. 17, Lot No. 1

N/F
David Van Leeuwen
Tax Parcel
10-14-0840-021
DB 260, Pg 2438
PB 47, Pg 17, Lot No. 2

N/F
Ronald Koshibskie
Tax Parcel 10-14-0840-003
DB 201519690
PB 2, Pg. 20, Lot No. 5

Good Hope Road Ventures I, LP
Tax Parcel 10-14-0840-020
DB 201114677

N/F
Mukul L. Parikh and Neelima M.
Parikh, Husband and Wife
Tax Parcel 10-14-0840-086
DB 119, Pg. 421 /
PB 66, Pg. 90, Lot No. 76

N/F
Thomas L. Dolse and Sheila
Dolse
Tax Parcel 10-14-0840-099
DB 256, Pg. 1641
PB 76, Pg 128, Lot No. 4

N/F
Roger A. Kohr and Gayle C.
Kohr, Husband and Wife
Tax Parcel 10-14-0840-098
DB 200823000
PB 76, Pg. 128, Lot No. 3

N/F
KBG Associates, LLC
Tax Parcel 10-14-0840-097
DB 248, Pg. 3832
PB 76, Pg. 128, Lot No. 2

N/F
Michael L. Schmalz
Tax Parcel 10-14-0840-019
DB 264, Pg. 1762
PB 76, Pg. 128, Lot No. 1

GOOD HOPE ROAD

Turkey Hill Mini Market

WOODLAND DRIVE

440
450
460
470

Scale: 1"=30'

0 15 30 60 120 FEET

EXHIBIT "3"
ATTACHED

4/9/14
Johnson et al

Tax Parcel No. 10-14-0840-021A

001O5Z

DEED

THIS DEED, made this 14th day of December, in the year two thousand nine (2009).

BETWEEN **JERALD W. PRICE and MARY ANNE PRICE,** husband and wife

Grantors

AND

GOOD HOPE VENTURES I, L.P., a Pennsylvania Limited Partnership

Grantee

WITNESSETH

IN CONSIDERATION of the sum of **TWO HUNDRED TWENTY THOUSAND and 00/100 ($220,000.00) DOLLARS** in hand paid, the receipt whereof is hereby acknowledged, the said Grantors do hereby grant and convey unto said Grantee, their heirs and assigns:

ALL THAT CERTAIN lot or piece of ground with improvements thereon erected, situate in Hampden Township, Cumberland County, Pennsylvania, bounded and described in accordance with a survey and plan by Walker Assoc. dated June 18, 1984, identified as drawing number 79-19, as follows, to wit:

BEGINNING at a point at the center line of Good Hope Road, said point being located South 00 degrees 59 minutes west, a distance of 164.0 feet from the center line of Wertzville Road; **THENCE** along the center line of the said Good Hope Road, South 00 degrees 59 minutes West 167.10 feet to a point; **THENCE** along Lot 1 on the hereinafter mentioned plan, North 89 degrees 30 minutes West 378.50 feet to a point; **THENCE** along same North 00 degrees 30 minutes East 135.37 feet to a point; **THENCE** along the center line of L.R. 569 (abandoned) North 89 degrees 48 minutes 20 seconds East 115.43 feet to a point; **THENCE** along same North 84 degrees 00 minutes 30 seconds East 267.08 feet to a point, the Place of **BEGINNING.**

BEING Lot 1 on the Final Subdivision plan for Kevin L. Lickel and Mary, his wife, recorded in Cumberland County Plan Book 47, Page 17.

BEING THE SAME PREMISES which Kevin L. Lickel and Mary E. Lickel, his wife by Deed dated October 18, 1985 and recorded October 21, 1985, in the Office of the Recorder of Deeds of Cumberland County, Pennsylvania, in Deed Book N-31, Page 1053, granted and conveyed unto Jerald W. Price and Mary Anne Price, the Grantors herein.

UNDER AND SUBJECT, NEVERTHELESS, to easements, conditions, restrictions and other matters of record and any and all matters which an inspection or survey of the property would disclose.

TOGETHER with all and singular the buildings, improvements, ways, streets, alleys, passages, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever thereunto belonging, or in any wise appertaining, and the reversions and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of theirs, the said **Grantors**, in law, equity, or otherwise howsoever, of, in, to or out of the same.

TO HAVE AND TO HOLD the said lot or piece of ground above described, with the buildings and improvements thereon erected, hereditaments and premises hereby granted or mention , and intended so to be, with the appurtenances, unto the said **Grantee**, their heirs and assigns, to and for the only proper use and behoof of the said **Grantee**, their heirs and assigns, forever.

And the said **Grantors** hereby covenants and agrees that they will warrant specially the property hereby conveyed.

IN WITNESS WHEREOF, said Grantors have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered
In the presence of:

(Seal)

Jerald W. Price

(Seal)

Mary Anne Price

COMMONWEALTH OF PENNSYLVANIA :
: **ss.**
COUNTY OF CUMBERLAND :

On this, the 14th day of December, 2009, before me the undersigned officer, personally appeared **Jerald W. Price,** known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Sue J. Kotalik, Notary Public
Hampden Twp., Cumberland County
My Commission Expires Sept. 16, 2011
Member, Pennsylvania Association of Notaries

Sue J. Kotalik
Notary Public

COMMONWEALTH OF PENNSYLVANIA :
: **ss.**
COUNTY OF CUMBERLAND :

On this, the 14th day of December, 2009, before me the undersigned officer, personally appeared **Mary Anne Price,** known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Sue J. Kotalik, Notary Public
Hampden Twp., Cumberland County
My Commission Expires Sept. 16, 2011
Member, Pennsylvania Association of Notaries

Sue J. Kotalik
Notary Public

I hereby certify that the precise address of the Grantees herein is as follows:

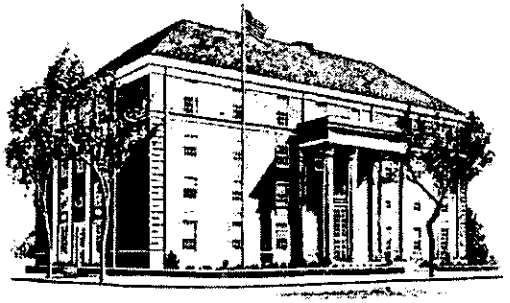
1828 Good Hope Road, Suite 202

Enola [redacted], PA 17025

Agent/Attorney for Grantees

:385467

ROBERT P. ZIEGLER
RECORDER OF DEEDS
CUMBERLAND COUNTY
1 COURTHOUSE SQUARE
CARLISLE, PA 17013
717-240-6370



Instrument Number - 200941914
Recorded On 12/18/2009 At 10:47:20 AM
* Total Pages - 5
* Instrument Type - DEED
Invoice Number - 57934 User ID - JM
* Grantor - PRICE, JERALD W
* Grantee - GOOD HOPE VENTURES L P
* Customer - JOHNSON ET AL
* FEES

STATE TRANSFER TAX	$2,200.00
STATE WRIT TAX	$0.50
STATE JCS/ACCESS TO JUSTICE	$23.50
RECORDING FEES - RECORDER OF DEEDS	$11.50
PARCEL CERTIFICATION FEES	$10.00
AFFORDABLE HOUSING	$11.50
COUNTY ARCHIVES FEE	$2.00
ROD ARCHIVES FEE	$3.00
CUMBERLAND VALLEY SCHOOL DISTRICT	$1,100.00
HAMPDEN TOWNSHIP	$1,100.00
TOTAL PAID	$4,462.00

Certification Page

DO NOT DETACH

This page is now part of this legal document.

I Certify this to be recorded in Cumberland County PA

COUNTY OF CUMBERLAND 1750

RECORDER OF DEEDS

* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

001O5Z

EXHIBIT "4"
ATTACHED

3

14677 1

000LPK

Prepared by:
Law Offices Stephen C. Nudel, PC
219 Pine Street
Harrisburg, PA 17101
(717) 236-5000

Return to:
Law Offices Stephen C. Nudel, PC
219 Pine Street
Harrisburg, PA 17101
(717) 236-5000

UPI #10-14-0840-020

SPECIAL
WARRANTY DEED

THIS DEED,

MADE the 19th day of May in the year two thousand eleven.

BETWEEN

KEVIN L. LICKEL AND M. KAREN LICKEL, husband and wife, Grantors

- A N D -

GOOD HOPE VENTURES I, LP, a Pennsylvania limited partnership, Grantee

WITNESSETH, that in consideration of One Hundred Ninety Thousand and XX/100 Dollars ($190,000.00), in hand paid, the receipt whereof is hereby acknowledged, the said grantors do hereby grant and convey to the said grantee,

ALL THAT certain piece or parcel of land situate in Hampden Township, Cumberland County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a spike in the center of the public road leading from Wertzville to Good Hope; thence along lands of Kenneth Kline North eighty-four (84) degrees West five hundred thirteen and three-tenths (513.3) feet to a pin; thence along lands of Harry A. Blust and Frances V. Blust, North eight (8) degrees fifteen (15) minutes East eighty-three and five-tenths (83.5) feet to a pin; thence along lands of Harry A. Blust and Frances V. Blust South eighty-nine (89) degrees thirty (30) minutes East five hundred (500) feet to a spike in the center of the aforesaid public road; thence along the center of said public road South thirty (30) minutes West one hundred thirty-one and five-tenths (131.5) feet to a spike; the place of BEGINNING.

CONTAINING approximately one and twenty-six one-hundredths (1.26) acres.

HAVING THEREON ERECTED a dwelling house being known and numbered as 2045 Good Hope Road, Enola, Pennsylvania.

BEING the same premises which Edith R. Sydnor, widow woman, by deed dated August 24, 1994, and recorded August 25, 1994, in the Office of the Recorder of Deeds in and for Cumberland County, Pennsylvania, in Deed Book 110, Page 905, granted and conveyed unto Kevin L. Lickel and M. Karen Lickel, his wife.

UNDER AND SUBJECT to easements, covenants, reservations, restrictions and right-of-ways of record.

AND the said grantor(s) will SPECIALLY WARRANT AND FOREVER DEFEND the property hereby conveyed.

IN WITNESS WHEREOF, the grantors have hereunto set their hands and seals the day and year first above written.

Signed and delivered in the presence of

Paul B. Whipple Jr

Paul B. Whipple Jr

Kevin L. Lickel

M. Karen Lickel

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the grantee herein is as follows: 2020 Good Hope Rd Enola PA 17025

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF Cumberland

On this, the 19th day of May, 2011, before me the undersigned officer, personally appeared KEVIN L. LICKEL and M. KAREN LICKEL, known to me, (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledge that they executed the same for the purpose therein contained.

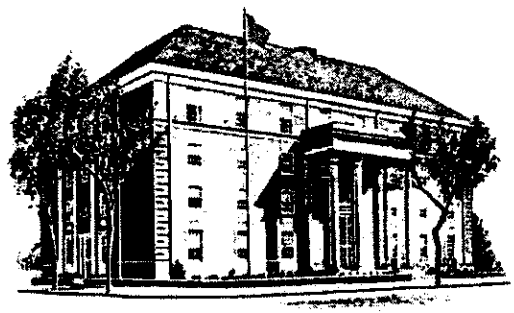
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My commission expires: 9-16-11

Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Sue J. Kotalik, Notary Public
Hampden Twp., Cumberland County
My Commission Expires Sept. 16, 2011
Member, Pennsylvania Association of Notaries

ROBERT P. ZIEGLER
RECORDER OF DEEDS
CUMBERLAND COUNTY
1 COURTHOUSE SQUARE
CARLISLE, PA 17013
717-240-6370



Instrument Number - 201114677
Recorded On 5/23/2011 At 12:23:50 PM
* Total Pages - 4
* Instrument Type - DEED
Invoice Number - 87266 User ID - MSW
* Grantor - LICKEL, KEVIN L
* Grantee - GOOD HOPE VENTURES I LP
* Customer - STEPHEN C NUDEL
* FEES

STATE TRANSFER TAX	$1,900.00
STATE WRIT TAX	$0.50
STATE JCS/ACCESS TO JUSTICE	$23.50
RECORDING FEES - RECORDER OF DEEDS	$11.50
PARCEL CERTIFICATION FEES	$10.00
AFFORDABLE HOUSING	$11.50
COUNTY ARCHIVES FEE	$2.00
ROD ARCHIVES FEE	$3.00
CUMBERLAND VALLEY SCHOOL DISTRICT	$950.00
HAMPDEN TOWNSHIP	$950.00
TOTAL PAID	$3,862.00

Certification Page

DO NOT DETACH

This page is now part of this legal document.

I Certify this to be recorded in Cumberland County PA

COUNTY OF CUMBERLAND 1750

RECORDER OF DEEDS

* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

000LPK

EXHIBIT "5"
ATTACHED

AGREEMENT OF SALE

THIS AGREEMENT OF SALE ("AGREEMENT") MADE and entered into this 19th day of April, 2023, by and between Susan K. Paluscio and the Estate of John S. Paluscio, hereinafter called "Seller," and Good Hope Ventures GH, LLC, hereinafter called "Buyer", as follows:

The Seller agrees to sell and convey to the Buyer who agrees to purchase:

5165 Wertzville Road and the adjacent corner parcel, Enola, Cumberland County, Pennsylvania, more specifically known as Cumberland County Tax Parcel Nos. 10-14-0840-043B and 10-14-0840-001, together with the improvements thereon (collectively the "Premises") on the following terms and conditions:

1. **Purchase Price:** For and in consideration of the selling, granting, transferring and conveying of the Premises in accordance with the terms and conditions contained herein, Buyer agrees to pay to Seller the sum of One Million Two Hundred Thousand Dollars ($1,200,000.00) (the "Purchase Price"). The Purchase Price shall be allocated Seven Hundred Fifty Thousand Dollars ($750,000.00) to Tax Parcel No. 10-14-0840-043B and Four Hundred Fifty Thousand Dollars ($450,000.00) to Tax Parcel No. 10-14-0840-001.

2. **Date of Execution:** The "Date of Execution of this Agreement" means the date stated above regardless of the date the parties sign this Agreement.

3. **Deposit:** Within ten (10) days of the Date of Execution of this Agreement, Buyer will pay to Seller a deposit of Ten Thousand Dollars ($10,000.00) (the "Deposit").

4. **Settlement:** Shall occur within ninety (90) days of final land development approval and rezoning of the Premises by Hampden Township Board of Commissioners.

5. **Settlement Costs:** At the time of settlement, all real property taxes shall be apportioned on the current fiscal year basis of the applicable taxing authority. Realty transfer taxes shall be paid in equal amounts with each party paying one-half of the total tax (i.e., each party shall pay one-half of the tax). The Buyer shall pay for the cost of recording the Deed and the premium for the Owner's title insurance policy. Special assessment liens assessed against the Premises as of the date of Settlement shall be paid by the Seller. All special assessments assessed against the Premises subsequent to the date of Settlement shall be paid by the Buyer. Except as otherwise provided herein, all other costs and expenses shall be borne by the party incurring the same.

6. **Possession and Lease:** Possession is to be given at settlement.

7. **Risk of Loss:** Seller assumes the risk of loss or damage due to negligence, willful action or omission, or fire or other casualty, prior to settlement. In the event of damage or loss which is not repaired or replaced prior to settlement, Buyer shall have the option of canceling this Agreement and receiving a refund of all monies paid on account of the purchase price, or accepting the Premises without any abatement of purchase price.

8. **Notices and Assessments:** Seller represents that as of the date of this Agreement, no assessments have been made against the Premises which remain unpaid, and no notices have been served upon Seller relating to the Premises including notices of code violations.

9. **Title:** Title is to be good and marketable, and such as can be insured at regular rates by a title insurance company licensed to do business in Pennsylvania free of all encumbrances (excepting zoning regulations, reservations, easements, and restrictions of record). Should Seller be unable to give good and marketable title, such as can be insured at regular rates by a title insurance company licensed to do business in Pennsylvania, Buyer may, at Buyer's option, terminate this Agreement and receive a refund of all monies paid on account of the purchase price, and Buyer shall be reimbursed by Seller for any expenses Buyer incurred for title searches, surveys, cancellation fees, mortgage application or prepaid fees, or other related fees.

10. **Inspections:** Buyer acknowledges that it is purchasing the Premises in "as is" condition and that Seller, its agents or employees have made no representations, express or implied, about the condition or structural integrity of the premises. Buyer acknowledges that it has had an opportunity to inspect the premises and to seek such other opinions as it may deem appropriate.

11. **Pre-settlement Inspection: Buyer reserves the right to make a pre-settlement inspection of the subject premises and to inspect the premises upon reasonable request throughout the term of this Agreement.**

12. **Successors and Assigns:** The Buyer has the right to assign this Agreement with the approval of the Seller prior to settlement. The Agreement shall be binding upon any and all successors and assigns of Buyers.

13. **Sellers's Cooperation:** Seller will not interfere with Buyer's attempt to rezone Premises. Buyer assumes responsibility for all efforts and fees to rezone Premises.

14. **Seller's Disclosure:** Buyer acknowledges that it has received and reviewed the Seller's Property Disclosure Statement. Buyer further acknowledges it is aware of and waives the receipt of the lead paint disclosure and booklet entitled "Protecting Your Family from Lead in Your Home."

15. **Environmental Compliance:** As of the Closing Date, the Real Property shall not be in violation of any federal, state, or local law, ordinance or regulation relating

to industrial hygiene or to the environmental conditions on, under, above, or about the Real Property, including, but not limited to, soil and groundwater conditions. During the time in which Seller has owned the Real Property, neither Seller, nor to the best of Seller's knowledge, any third party, has used, generated, manufactured, stored, released or disposed of; on, under, above or about the Real Property or transported to or from the Real Property any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related injurious materials, whether injurious by themselves or in combination with other materials.

16. **Contingency:** The parties acknowledge and agree that the Buyer's obligation to purchase the Premises is contingent on the Premises being rezoned CL - Commercial Limited by Hampden Township by December 31, 2023. In the event rezoning to CL - Commercial Limited is unsuccessful; Seller must return to Buyer the deposit paid by Buyer to Seller.

17. **Authority to Execute**: The parties executing this Agreement represent that they have full power and authority to execute same in their respective capacities and that no further signature or approvals are required. The parties hereto do hereby intend to be legally bound.

18. **Integration:** This Agreement merges all prior negotiations and understandings between the parties and constitutes their entire contract which is binding upon the Buyer and the heirs, executors, administrators, successors and assigns of Buyer when executed by Buyer, and is binding upon Seller, its successors and assigns, when executed by Seller, regardless of any written or verbal representation of any agent, manager or other employee of Seller or Buyer to the contrary.

19. **No Recording:** This Agreement shall not be recorded in the office for the Recording of Deeds or in any other place of public record.

20. **Time of Essence:** The parties agree that time is of the essence in this Agreement.

21. **Governing Law:** The terms of this Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have set their hands and seals to the Agreement of Sale the day and year first written above.

SELLER:

_____ Witness: _____
Susan K. Paluscio

Estate of John S. Paluscio

_____ Witness: _____
By:
Title:

_____ Witness: _____
By:
Title:

_____ Witness: _____
By:
Title:

_____ Witness: _____
By:
Title:

BUYER:

Good Hope Ventures GH, LLC

_____ Witness: _____
By: Ryan M. Colquhoun, Member

IN WITNESS WHEREOF, the parties have set their hands and seals to the Agreement of Sale the day and year first written above.

SELLER:

_____ Witness: _____

Susan K. Paluscio

Estate of John S. Paluscio

_____ Witness: _____

By:
Title:

_____ Witness: _____

By:
Title:

_____ Witness: _____

By:
Title:

_____ Witness: _____

By:
Title:

BUYER:

Good Hope Ventures GH, LLC

_____ Witness: Deborah A. Scott

By: Ryan M. Colquhoun, Member

EXHIBIT "6"
ATTACHED

DigiSign Verified - 2946e0df-b57d-4ba3-a952-6e48f00ced58

AGREEMENT OF SALE

THIS AGREEMENT OF SALE ("AGREEMENT") MADE and entered into this **2nd** day of **August**, 2024, by and between David Van Leeuwen, hereinafter called "Seller," and Good Hope Ventures GH, LLC, hereinafter called "Buyer", as follows:

The Seller agrees to sell and convey to the Buyer who agrees to purchase premises situate at 2053 Hope Road, Enola, Cumberland County, Pennsylvania, together with the improvements thereon on the the following terms and conditions:

1. **Purchase Price:** Purchase price is $695,000.

2. **Deposits:** Within ten (10) days of execution of this Agreement, Buyer will pay to Seller a deposit of $5,000. At settlement, the deposit shall apply in full as a credit from Seller to Buyer toward the Purchase Price.

3. **Settlement:** Shall occur no later than September 30, 2024. Buyer may extend settlement to no later than December 31, 2024. To exercise Buyer's option to extend settlement to no later than December 31, 2024, Buyer shall deliver to Seller written notice of such via email or USPS first-class mail and an additional deposit of $5,000 no later than October 10, 2024. If Buyer does not exercise Buyer's option and settlement does not occur no later than September 30, 2024, for any reason, except for those reasons caused by Seller, Seller shall retain the $5,000 deposit as liquidated damages. Furthermore, if Buyer does exercise Buyer's option and settlement does not occur no later than December 31, 2024, for any reason, except for those reasons caused by Seller, Seller shall retain the $10,000 deposit (two $5,000 payments) as liquated damages. In the event the deposit converts to liquidated damages due to a Buyer's failure to settle, this Agreement shall terminate and neither party has any further obligations under this Agreement.

4. **Transfer Taxes:** Taxes and municipal charges assessed against the property shall be apportioned to the date of settlement. The portion of the taxes attributable to land shall be apportioned based upon the respective acreage being sold and retained by Seller.

5. **Possession and Lease:** Possession is to be given at settlement.

6. **Adjustment at Settlement:** Taxes and municipal charges assessed against the property shall be apportioned to the date of settlement. The portion of the taxes attributable to land shall be apportioned based upon the respective acreage being sold and retained by Seller.

7. **Risk of Loss:** Seller assumes the risk of loss or damage due to negligence, willful action or omission, or fire or other casualty, prior to settlement. In the event of damage or loss which is not repaired or replaced prior to settlement, Buyer shall

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have the option of canceling this Agreement and forfeit all monies paid on account of the purchase price or accepting the premises without any abatement of purchase price.

8. **Notices and Assessments:** Seller represents that as of the date of this Agreement, no assessments have been made against the property which remain unpaid, and no notices have been served upon Seller relating to the property including notices of code violations.

9. **Title:** Title is to be good and marketable, and such as can be insured at regular rates by a title insurance company licensed to do business in Pennsylvania free of all encumbrances (excepting zoning regulations, reservations, easements, and restrictions of record). Should Seller be unable to give good and marketable title, such as can be insured at regular rates by a title insurance company licensed to do business in Pennsylvania, Buyer may, at Buyer's option, terminate this Agreement and receive a refund of all monies paid on account of the purchase price, and Buyer shall be reimbursed by Seller for any expenses Buyer incurred for title searches, surveys, cancellation fees, mortgage application or prepaid fees, or other related fees.

10. **Inspections:** Buyer acknowledges that it is purchasing the property in "as is" condition and that Seller, its agents or employees have made no representations, express or implied, about the condition or structural integrity of the premises. Buyer acknowledges that it has had an opportunity to inspect the premises and to seek such other opinions as it may deem appropriate. Furthermore, no provision of this Agreement shall limit or prohibit Seller from demolishing or removing any existing structure from the Property.

11. **Pre-settlement Inspection: Buyer reserves the right to make a pre-settlement inspection of the subject premises and to inspect the premises upon reasonable request throughout the term of this Agreement.**

12. **Successors and Assigns:** The Buyer has the right to assign this Agreement with the approval of the Seller prior to settlement. The Agreement shall be binding upon any and all successors and assigns of Buyers.

13. **Sellers's Cooperation:** Seller will not interfere with Buyer's attempt to rezone property. Buyer assumes responsibility for all efforts and fees to rezone property.

14. **Seller's Disclosure:** Buyer acknowledges that it has received and reviewed the Seller's Property Disclosure Statement. Buyer further acknowledges it is aware of and waives the receipt of the lead paint disclosure and booklet entitled "Protecting Your Family from Lead in Your Home."

15. **Environmental Compliance:** As of the Closing Date, the Real Property shall not be in violation of any federal, state, or local law, ordinance or regulation relating to industrial hygiene or to the environmental conditions on, under, above, or

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about the Real Property, including, but not limited to, soil and groundwater conditions. During the time in which Seller has owned the Real Property, neither Seller, nor to the best of Seller's knowledge, any third party, has used, generated, manufactured, stored, released or disposed of; on, under, above or about the Real Property or transported to or from the Real Property any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related injurious materials, whether injurious by themselves or in combination with other materials.

16. **No Contingency:** The parties acknowledge and agree that there are no contingencies, except as may be set forth herein, upon which the validity or enforcement of this Agreement depends.

17. **Authority to Execute**: The parties executing this Agreement represent that they have full power and authority to execute same in their respective capacities and that no further signature or approvals are required. The parties hereto do hereby intend to be legally bound.

18. **Integration:** This Agreement merges all prior negotiations and understandings between the parties and constitutes their entire contract which is binding upon the Buyer and the heirs, executors, administrators, successors and assigns of Buyer when executed by Buyer, and is binding upon Seller, its successors and assigns, when executed by Seller, regardless of any written or verbal representation of any agent, manager or other employee of Seller or Buyer to the contrary.

19. **No Recording:** This Agreement shall not be recorded in the office for the Recording of Deeds or in any other place of public record.

20. **Time of Essence:** The parties agree that time is of the essence in this Agreement.

21. **Governing Law:** The terms of this Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, the parties have set their hands and seals to the Agreement of Sale the day and year first written above.

SELLER:

David van Leeuwen 08/05/2024 Witness:_____

David Van Leeuwen

BUYER:

Good Hope Ventures GH, LLC

Ryan M. Colquhoun 08/05/2024 Witness:_____

By: Ryan M. Colquhoun, Member

EXHIBIT "7"
ATTACHED

AGREEMENT OF SALE

THIS AGREEMENT OF SALE ("AGREEMENT") MADE and entered into this 8th day of **August**, 2024, by and between Stephen M. Stoner, hereinafter called "Seller," and Good Hope Ventures GH, LLC, hereinafter called "Buyer", as follows:

The Seller agrees to sell and convey to the Buyer who agrees to purchase:

5195 Wertzville Road (Lots 6, 7, 8, and 9), Enola, Cumberland County, Pennsylvania, more specifically known as Cumberland County Tax Parcel Nos. 10-14-0840-043A, 10-14-0840-043, and 10-14-0840-043C, together with the improvements thereon (collectively the "Premises") on the following terms and conditions:

1. **Purchase Price:** For and in consideration of the selling, granting, transferring and conveying of the Premises in accordance with the terms and conditions contained herein, Buyer agrees to pay to Seller the sum of Seven Hundred Seventy-Five Thousand Dollars ($775,000.00) (the "Purchase Price").

2. **Date of Execution:** The "Date of Execution of this Agreement" means the latest of the date stated above or the date the last Party signs this Agreement.

3. **Deposits:** Within ten (10) days of the Date of Execution of this Agreement, Buyer will pay to Seller a deposit of Ten Thousand Dollars ($10,000.00) (the "Initial Deposit"). This Initial Deposit and any additional deposit paid shall be non-refundable if Buyer does not close as provided for in Section 4 of this Agreement. Notwithstanding the foregoing, if the Buyer closes as detailed in Section 4 of this Agreement, Buyer shall receive full credit for such Deposits paid at the time of settlement.

4. **Settlement:** Shall occur no later than October 31, 2024. Buyer, in its sole discretion, may extend settlement to no later than December 20, 2024. To exercise Buyer's option to extend settlement to no later than December 20, 2024, Buyer shall deliver to Seller written notice of such via email or USPS first-class mail and an additional deposit of $5,000 no later than November 10, 2024. If Buyer does not exercise Buyer's option and settlement does not occur no later than October 31, 2024, for any reason, except for those reasons caused by Seller, Seller shall retain the $10,000 deposit and this Agreement shall terminate and neither party has any further obligations under this Agreement. Furthermore, if Buyer does exercise Buyer's option and settlement does not occur no later than December 20, 2024, for any reason, except for those reasons caused by Seller, Seller shall retain the $15,000 deposit (first payment of $10,000 and second payment of $5,000), and this Agreement shall terminate and neither party has any further obligations under this Agreement.

5. **Settlement Costs:** At the time of settlement, all real property taxes shall be apportioned on the current fiscal year basis of the applicable taxing authority. Realty transfer taxes shall be paid in equal amounts with each party paying one-half of the total tax (i.e., each party shall pay one-half of the tax). The Buyer shall pay for the cost of recording the Deed and the premium for the Owner's title insurance policy. Special assessment liens assessed against the Premises as of the date of Settlement shall be paid by the Seller. All special assessments assessed against the Premises subsequent to the date of Settlement shall be paid by the Buyer. Except as otherwise provided herein, all other costs and expenses shall be borne by the party incurring the same.

6. **Possession and Lease:** Possession is to be given at settlement.

7. **Risk of Loss:** Seller assumes the risk of loss or damage due to negligence, willful action or omission, or fire or other casualty, prior to settlement. In the event of damage or loss which is not repaired or replaced prior to settlement, Buyer shall have the option of canceling this Agreement and receiving a refund of all monies paid on account of the purchase price, or accepting the Premises without any abatement of purchase price.

8. **Notices and Assessments:** Seller represents that as of the date of this Agreement, no assessments have been made against the Premises which remain unpaid, and no notices have been served upon Seller relating to the Premises including notices of code violations.

9. **Title:** Title is to be good and marketable, and such as can be insured at regular rates by a title insurance company licensed to do business in Pennsylvania free of all encumbrances (excepting zoning regulations, reservations, easements, and restrictions of record). Should Seller be unable to give good and marketable title, such as can be insured at regular rates by a title insurance company licensed to do business in Pennsylvania, Buyer may, at Buyer's option, terminate this Agreement and receive a refund of all monies paid on account of the purchase price, and Buyer shall be reimbursed by Seller for any expenses Buyer incurred for title searches, surveys, cancellation fees, mortgage application or prepaid fees, or other related fees.

10. **Inspections:** Buyer acknowledges that it is purchasing the Premises in "as is" condition and that Seller, its agents or employees have made no representations, express or implied, about the condition or structural integrity of the premises. Buyer acknowledges that it has had an opportunity to inspect the premises and to seek such other opinions as it may deem appropriate.

11. **Pre-settlement Inspection: Buyer reserves the right to make a pre-settlement inspection of the subject premises and to inspect the premises upon reasonable request throughout the term of this Agreement.**

12. **Successors and Assigns:** The Buyer has the right to assign this Agreement with the approval of the Seller prior to settlement. The Agreement shall be binding upon any and all successors and assigns of Buyers.

13. **Sellers's Cooperation:** Seller will not interfere with Buyer's attempt to rezone Premises. Buyer assumes responsibility for all efforts and fees to rezone Premises.

14. **Seller's Disclosure:** Buyer acknowledges that it has received and reviewed the Seller's Property Disclosure Statement. Buyer further acknowledges it is aware of and waives the receipt of the lead paint disclosure and booklet entitled "Protecting Your Family from Lead in Your Home."

15. **Environmental Compliance:** As of the Closing Date, the Real Property shall not be in violation of any federal, state, or local law, ordinance or regulation relating to industrial hygiene or to the environmental conditions on, under, above, or about the Real Property, including, but not limited to, soil and groundwater conditions. During the time in which Seller has owned the Real Property, neither Seller, nor to the best of Seller's knowledge, any third party, has used, generated, manufactured, stored, released or disposed of; on, under, above or about the Real Property or transported to or from the Real Property any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related injurious materials, whether injurious by themselves or in combination with other materials.

16. **No Contingency:** The parties acknowledge and agree that there are no contingencies, except as may be set forth herein, upon which the validity or enforcement of this Agreement depends.

17. **Authority to Execute**: The parties executing this Agreement represent that they have full power and authority to execute same in their respective capacities and that no further signature or approvals are required. The parties hereto do hereby intend to be legally bound.

18. **Integration:** This Agreement merges all prior negotiations and understandings between the parties and constitutes their entire contract which is binding upon the Buyer and the heirs, executors, administrators, successors and assigns of Buyer when executed by Buyer, and is binding upon Seller, its successors and assigns, when executed by Seller, regardless of any written or verbal representation of any agent, manager or other employee of Seller or Buyer to the contrary.

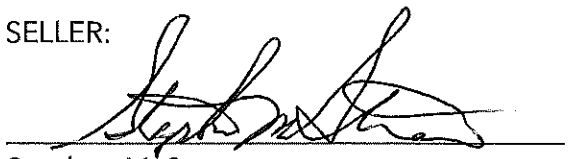
19. **No Recording:** This Agreement shall not be recorded in the office for the Recording of Deeds or in any other place of public record.

20. **Time of Essence:** The parties agree that time is of the essence in this Agreement.

21. **Governing Law:** The terms of this Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, the parties have set their hands and seals to the Agreement of Sale the day and year first written above.

SELLER:



Witness:_____

Stephen M. Stoner

BUYER:

Good Hope Ventures GH, LLC



Witness:_____

By: Ryan M. Colquhoun, Member

CHANGE IN TERMS ADDENDUM TO AGREEMENT OF SALE

This Change in Terms Addendum to Agreement of Sale ("Addendum") is dated December 5, 2024, and is by and between Stephen M. Stoner (hereinafter referred to as "Seller") and Good Hope Ventures GH, LLC (hereinafter referred to as "Buyer"), collectively referred to as the "Parties".

WHEREAS, the Parties entered into an Agreement of Sale dated August 8, 2024 (hereinafter referred to as the "Agreement"), for the sale of 5195 Wertzville Road (Lots 6, 7, 8, and 9), Enola, Cumberland County, Pennsylvania (hereinafter referred to as the "Property") owned by Seller;

WHEREAS, within ten (10) days of the Date of Execution of the Agreement, Buyer paid to Seller a deposit in the amount of Ten Thousand Dollar ($10,000.00);

WHEREAS, prior to November 10, 2024, the Parties agreed to extend the Agreement until December 20, 2024, and Buyer paid to Seller a deposit in the amount of Five Thousand Dollars ($5,000.00);

WHEREAS, settlement is to occur no later than December 20, 2024; and,

WHEREAS, the Parties wish to memorialize their agreement to amend the Agreement and reaffirm the same under the terms and conditions set forth therein amended by this Addendum; and

NOW, THEREFORE, for the consideration contained herein, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto intending to be legally bound hereby agree as follows:

1. Recitals Incorporated

The recitals set forth in the WHEREAS Clauses of this Addendum are hereby incorporated into and are made part thereof this Addendum.

2. Extension Payment

Within ten (10) days of the Date of Execution of this Addendum, Buyer will pay to Seller an extension payment of Ten Thousand Dollars ($10,000.00). Said payment shall not be credited to Buyer at the time of settlement and is a one-time non-refundable payment to Seller.

3. Settlement Date Modification

Section 4. Settlement. of the Agreement shall be amended to read as follows: Settlement: Shall occur no later than April 25, 2025. If settlement does not occur no later than April 25, 2025, for any reason, except for those reasons caused by Seller, Seller shall retain the $15,000 deposit (first payment of $10,000 and second payment of $5,000), and this Agreement shall terminate and neither party has any further obligations under this Agreement.

4. Post-Settlement Leaseback

Buyer agrees to enter into a lease agreement with Seller no later than the date of Settlement that contains, among other terms, the following:

a. Initial Term: Five (5) months beginning the date of Settlement

b. Rental Rate: $0.00/month during Initial Term

c. Utilities: Seller shall be responsible for the cost of all utilities

d. Maintenance: Seller shall be responsible for the cost of all maintenance

e. Security Deposit: $0.00 during Initial Term

f. Insurance: Seller shall maintain liability insurance that contains a policy limit of no less than One Hundred Thousand Dollars ($100,000).

g. Renewal Term: The Parties may agree, in writing, to extend the tenancy at the

end of the Initial Term on a month-to-month basis at a rental rate of $1,500.00/month. If the Parties extend the tenancy on a month-to-month basis at the end of the Initial Term, either party may terminate the tenancy by providing at least 30 days written notice to the other Party.

All other terms and conditions of the Agreement dated August 8, 2024, remain unchanged and in full force and effect.

SELLER:

Stephen M. Stoner — Date: 12-6-24

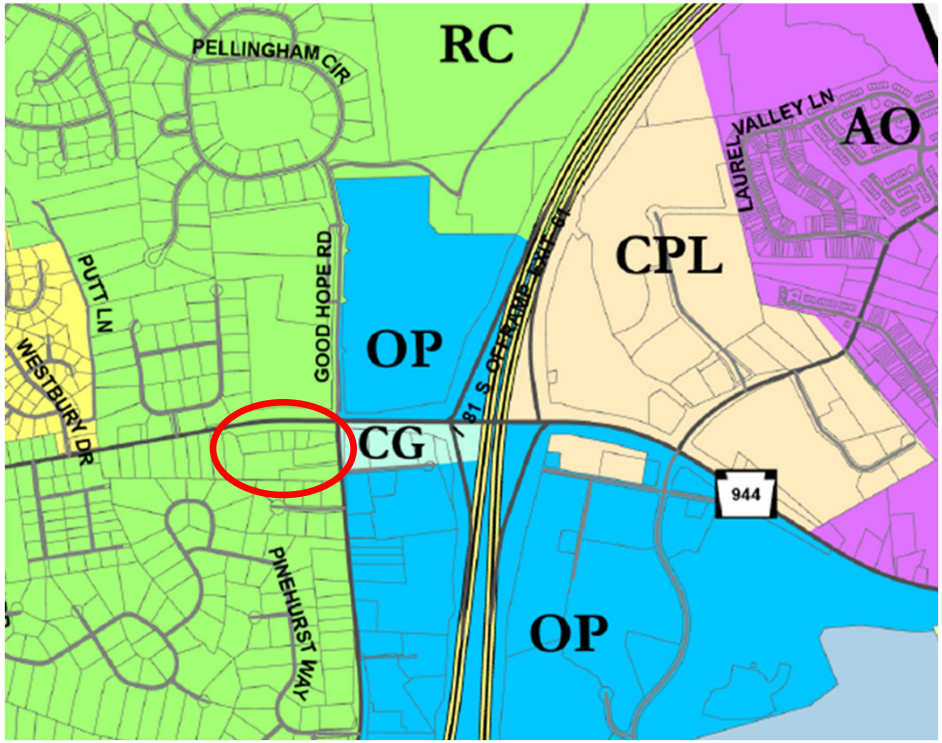
BUYER:

Good Hope Ventures GH, LLC

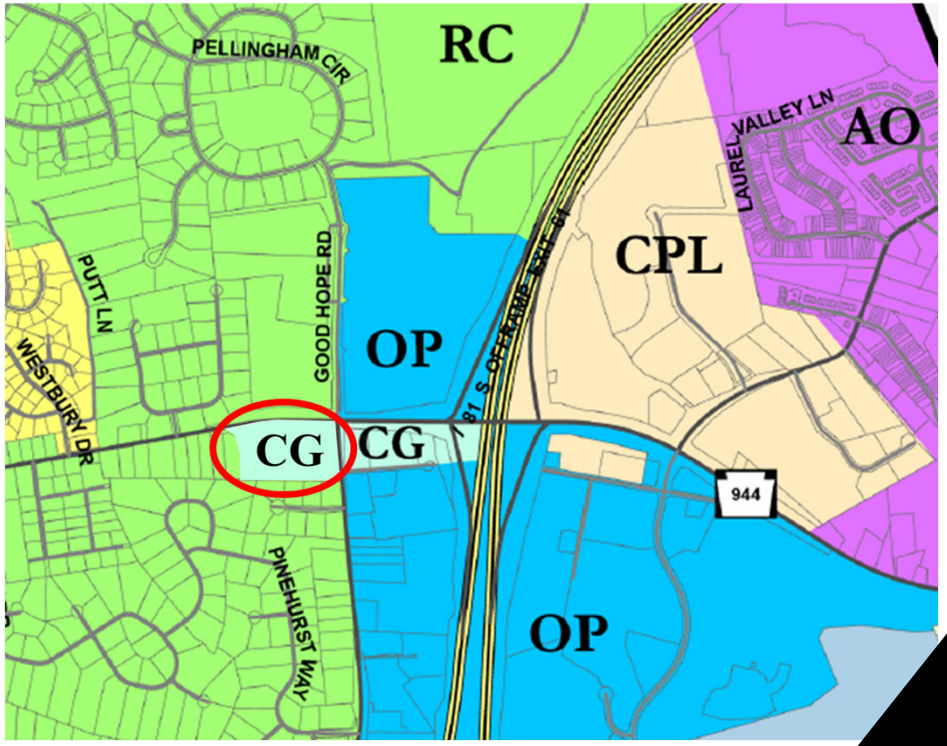
By: Ryan M. Colquhoun, Member — Date: 12/5/24

EXHIBIT "8"
ATTACHED

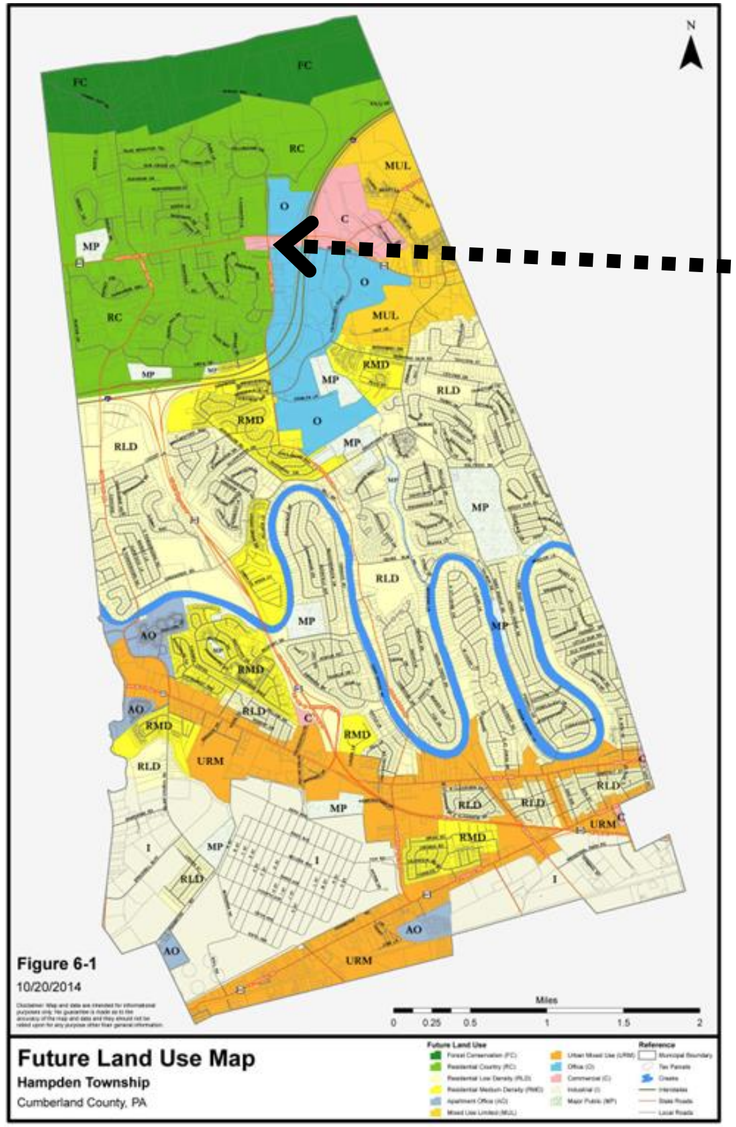
Existing Zoning Map

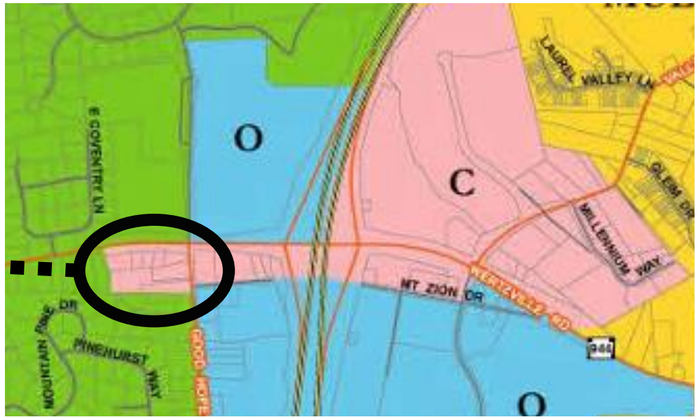


Proposed Zoning Map Revision



TOWNSHIP COMPREHENSIVE PLAN

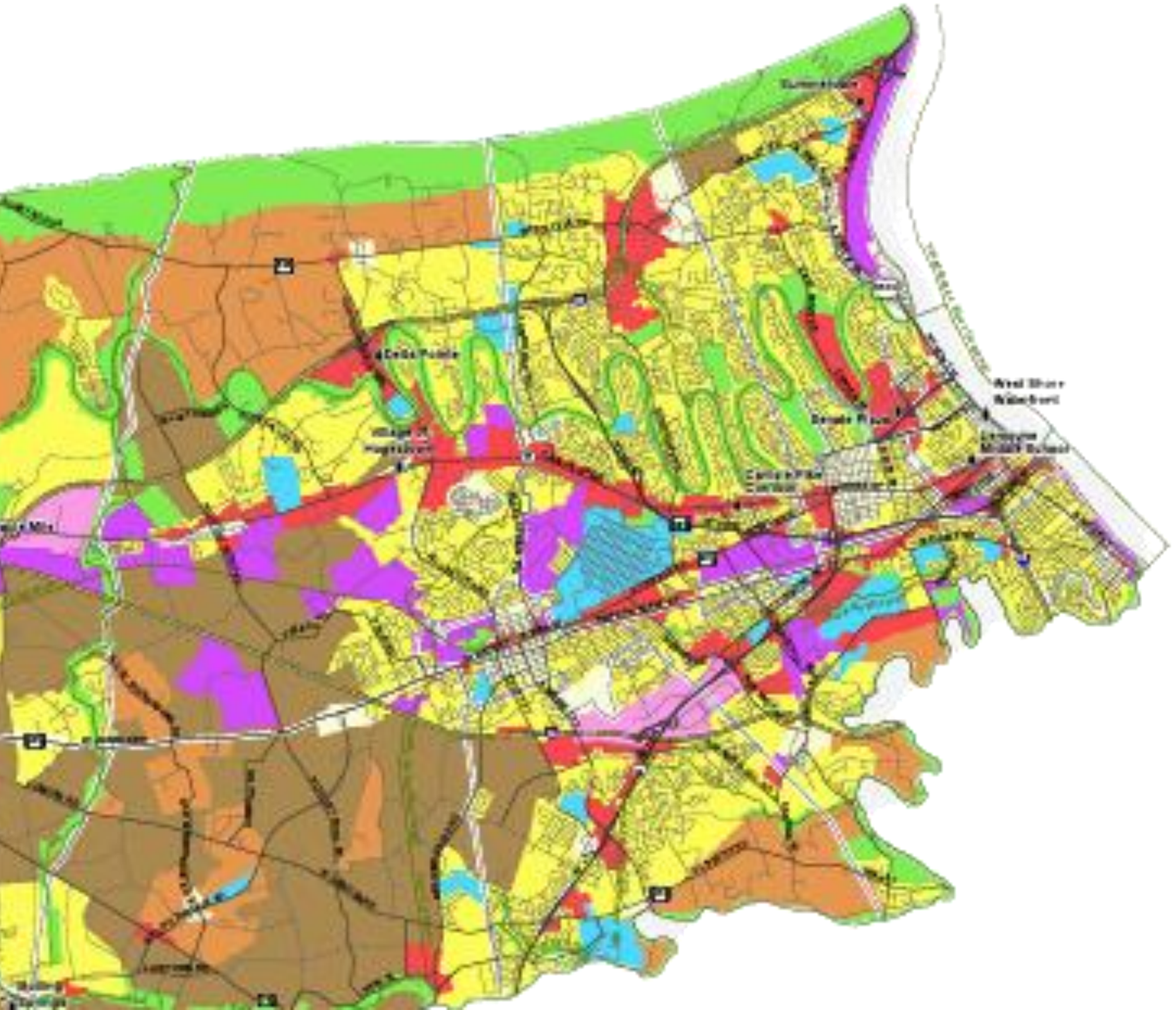




Hampden Township Comprehensive Plan future development goal designates area for commercial use

- High traffic corridor not conducive to residential uses
- Properties dissimilar from neighborhoods located south and west
- Existing uses do not support goals and future vision of Township and County

COUNTY COMPREHENSIVE PLAN

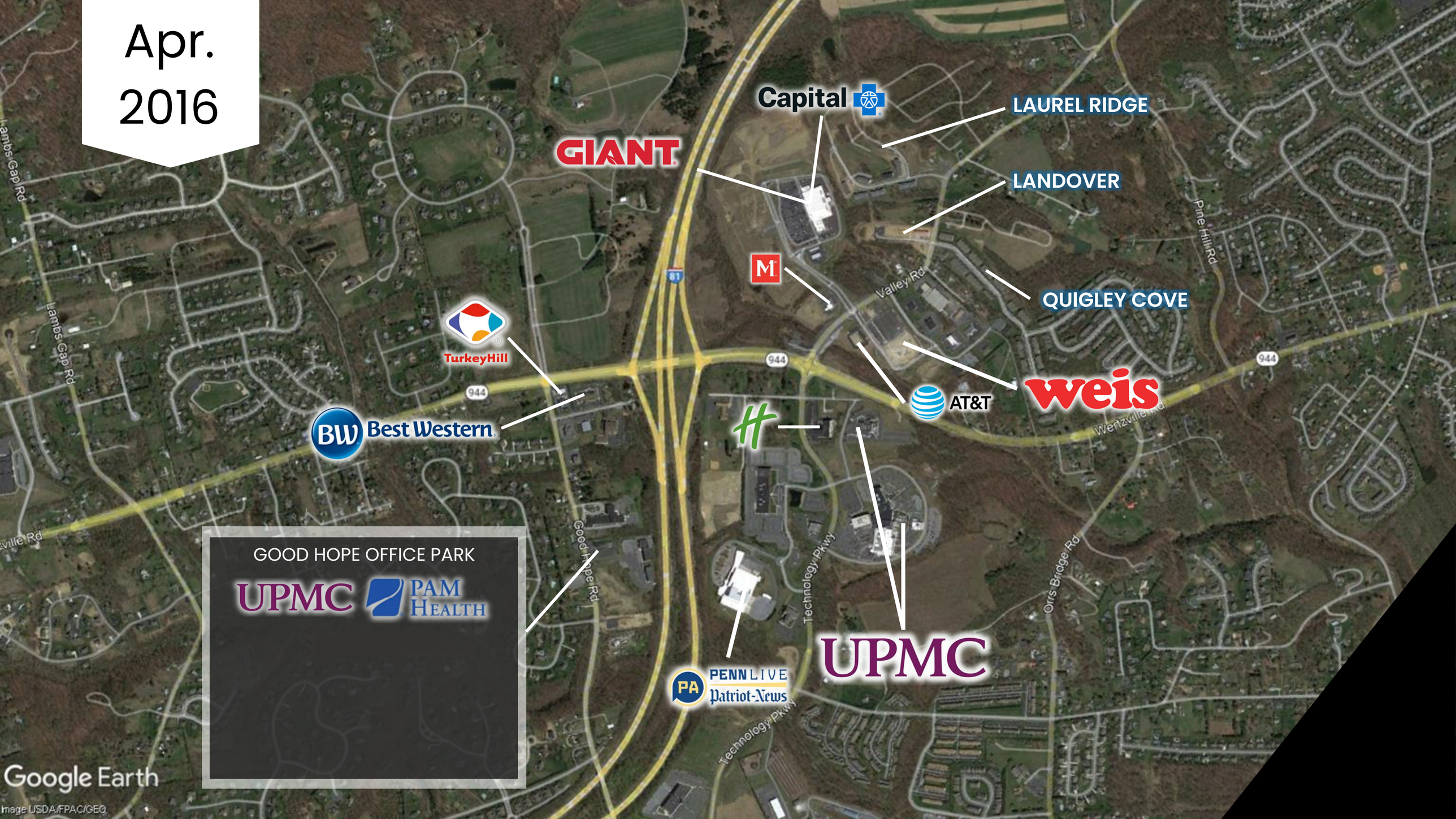




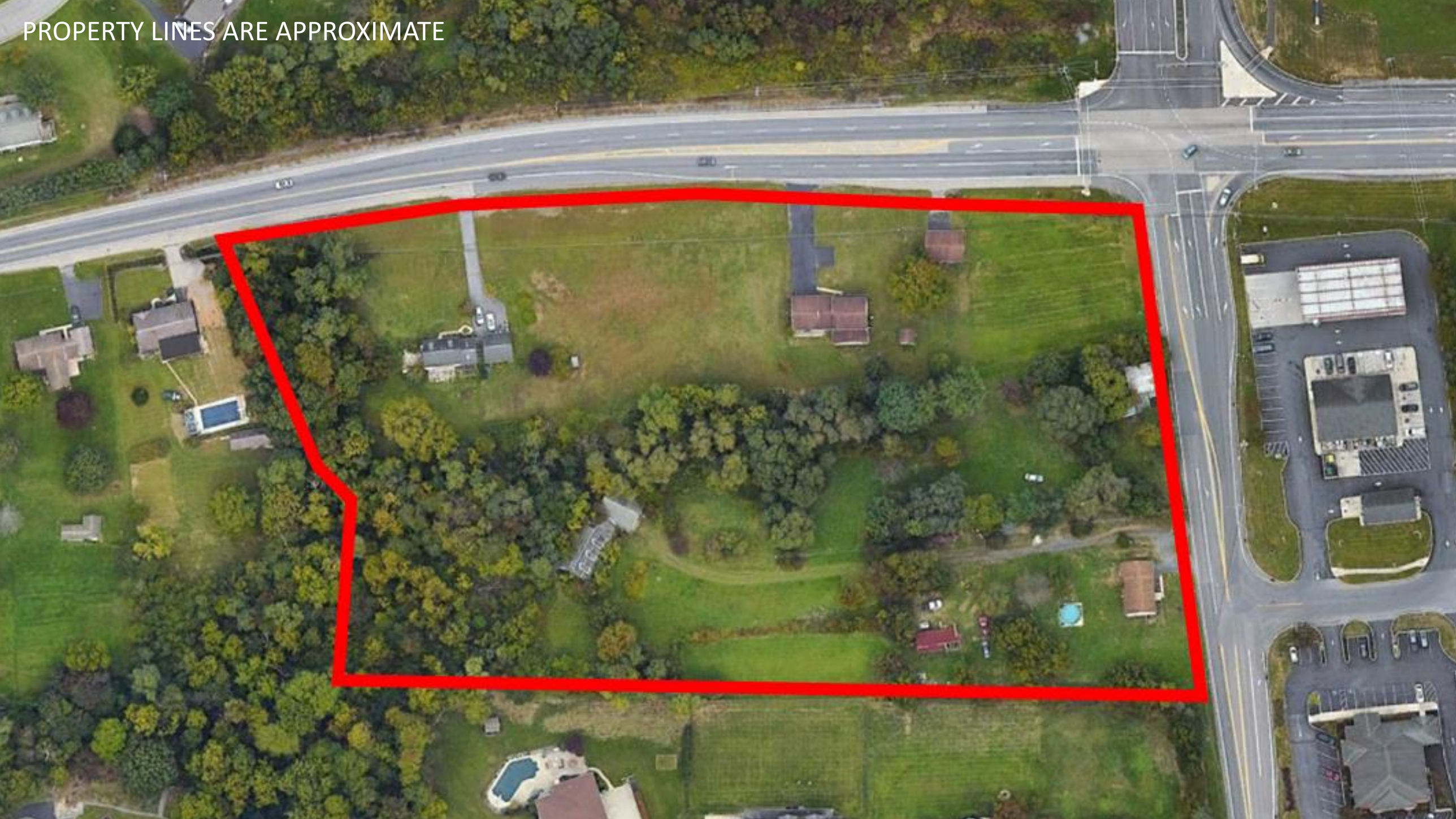
Future Land Use Categories

- CONSERVATION
- AGRICULTURE/PRIME FARMLAND
- AGRICULTURAL/RURAL
- RESIDENTIAL
- TRADITIONAL NEIGHBORHOOD/MIXED USE
- DOWNTOWN
- COMMERCIAL
- HIGHWAY INTERCHANGE
- INDUSTRIAL
- INSTITUTIONAL

- Opportunity Area
- Municipal Boundary
- Interstate
- State Road
- Minor Road
- Greenway


Apr.
2016
GIANT
Capital
LAUREL RIDGE
LANDOVER
QUIGLEY COVE
TurkeyHill
Best Western
AT&T
weis
UPMC
PENN LIVE
Patriot-News
GOOD HOPE OFFICE PARK
UPMC
PAM HEALTH
Lambs Gap Rd
Valley Rd
Pine Hill Rd
Good Hope Rd
Technology Pkwy
Orrs Bridge Rd
Wertzville Rd
944
81
Google Earth
Image USDA/FPAC/GEO


Sep.
2022
HAMPDEN GREENE
LAUREL RIDGE
LANDOVER
HADLEY PLACE
QUIGLEY COVE
WESTBURY MEADOWS
GIANT
Capital
PennState Health
TurkeyHill
BURGER KING
BELCO
AT&T
weis
Best Western
THE GODDARD SCHOOL
GOOD HOPE OFFICE PARK
UPMC
PAM HEALTH
Merakey
Crumay Parnes Associates, Inc.
JDC Pediatrics
65,000 SF MEDICAL OFFICES & SURGERY CENTER
PENNLIVE Patriot-News
UPMC
THE TOWNES OF ORRS BRIDGE
Lambs Gap Rd
Good Hope Rd
Technology Pkwy
Orrs Bridge Rd
Valley Rd
Pine Hill Rd
Wertzville Rd
944
81
Google Earth
Image USDA/FPAC/GEO


PROPERTY LINES ARE APPROXIMATE

R-C, RESIDENTIAL COUNTRY

O-P, OFFICE PARK

C-G, COMMERCIAL GENERAL

AREA FOR REZONING
CURRENT ZONING: R-C, RESIDENTIAL COUNTRY
PROPOSED ZONING: C-G, COMMERCIAL GENERAL
TOTAL TRACT AREA: 7.27 ACRES

Wertzville Road (S.R. 0944)

Good Hope Road (S.R. 1013)

Woodland Drive

S89° 05' 02"E 300.83'

N77° 08' 41"E 145.88'

N19° 14' 55"W 10.74'

N 83°55'47" E 207.86'

N 03°34'17" E 130.14'

N 89°22'12" W 171.83'

N 89°34'44" W 497.59'

N 89°34'44" W 362.74'

N 84°38'18" E 482.54'

S 16°21'40" E 103.62'

S 78°07'57" W 240.64'

S 11°52'03" E 54.00'±

N 78°07'57" E 114.81'

N 04°10'47" E 100.00'

N 09°33'47" E 240.64'

S 05°26'55" E 135.47'

N 84°38'18" E 81.39'

N 02°23'18" E 131.00'±

S 87°10'50" E 130.86'

N 68°26'18" E 47.57'

N06° 19' 13"W 172.74'

N06° 19' 13"W 168.87'

156.95'

148.62'

25.00'±

112.00'±

Stephen M. Stoner & Kim A. Stoner, Husband and Wife
Tax Parcel 10-14-0840-043A
Db 636, Pg 221
Pb 31, Pg 53, P.o. Lot No's 6 & 7
38314.81 S.F.
0.8796 AC.

Stephen M. Stoner & Kim A. Stoner, Husband and Wife
Tax Parcel
10-14-0840-043
Db 262, Pg 965
Pb 7, Pg 20, P.o. Lot No. 8
18989.43 S.F.
0.4359 AC.

Stephen M. Stoner & Kim A. Stoner
Tax Parcel
10-14-0840-043C
Db 260, Pg 2924
17258.15 S.F.
0.3962 AC.

John S. Paluscio & Susan K. Miller
Tax Parcel
10-14-0840-043B
Db 175, Pg 617
Pb 7, Pg 20, Lot No. 10
15843.95 S.F.
0.3637 AC.

John S. Paluscio
Tax Parcel
10-14-0840-001
Db 128, Pg 416
27401.46 S.F.
0.6291 AC.

Good Hope Ventures, LP
Tax Parcel
10-14-0840-021A
IN 200941914
52888.99 S.F.
1.2142 AC.

David VanLeeuwen
Tax Parcel
10-14-0840-021
Db 260, Pg 2438
Pb 47, Pg 17, Lot No. 2
94236.16 S.F.
2.1634 AC.

Kevin L. Lickel & M. Karen Lickel
Tax Parcel
10-14-0840-020
Db 110, Pg 905
51923.15 S.F.
1.1920 AC.

John Sallan And Lucia J. Roi, Husband And Wife, And Khun Aung
Tax Parcel 10-14-0840-003
Db 275, Pg 3484
Pb 7, Pg 20, Lot No. 5

Mukul L. Parikh And Neelima M. Parikh, Husband And Wife
Tax Parcel 10-14-0840-086
Instr. No. 199504675
Pb 66, Pg 90, Lot No. 76

Thomas L. Daise And Sheila Daise
Tax Parcel 10-14-0840-099
Instr. No. 200315430
Pb 76, Pg 128, Lot No. 4

Roger A. Kohr And Gayle C. Kohr, Husband And Wife
Tax Parcel 10-14-0840-098
Instr. No. 200822000
Pb 76, Pg 128, Lot No. 3

Kbg Associates, Llc
Tax Parcel 10-14-0840-097
Db 248, Pg 3832
Pb 76, Pg 128, Lot No. 2

Michael J. Schmalz
Tax Parcel 10-14-0840-019
Db 264, Pg 1762
Pb 76, Pg 128, Lot No. 1

Turkey Hill Minit Market

First National Bank of Marysville

LINE	BEARING	DISTANCE
L1	N 70°48'12" E	6.12'
L2	S 15°29'09" E	10.42'

Property Owners

Parcel Identification Number	Equitable Owner	Record Owner	Address
10-14-0840-001	Good Hope Ventures I, LP	John S. Paluscio	5165 Wertzville Road
10-14-0840-043	Good Hope Ventures I, LP	Stephen M. & Kim A. Stoner	5195 Wertzville Road
10-14-0840-043A	Good Hope Ventures I, LP	Stephen M. & Kim A. Stoner	5195 Wertzville Road
10-14-0840-043B	Good Hope Ventures I, LP	John S. Paluscio & Susan K.Miller	5165 Wertzville Road
10-14-0840-043C	Good Hope Ventures I, LP	Stephen M. & Kim A. Stoner	5195 Wertzville Road
10-14-0840-020	Good Hope Ventures I, LP	Kevin L. & M. Karen Lickel	2045 Good Hope Road
10-14-0840-021	Good Hope Ventures I, LP	David VanLeeuwen	2053 Good Hope Road
10-14-0840-021A	Good Hope Ventures I, LP	Good Hope Ventures, LP	2055 Good Hope Road

NOTE:
1. BASE INFORMATION OBTAINED FROM AERIAL MAPPING PERFORMED APRIL 1993.
2. CONTOUR INFORMATION OBTAINED FROM PAMAP PROGRAM, PA DEPT. OF CONSERVATION AND NATURAL RESOURCES. PUBLICATION DATE JULY 25, 2008.

0 20 40 80 120
SCALE: 1"=40'

DAWOOD
HARRISBURG
2020 Good Hope Road
Suite 200
Enola, PA 17025-1237
Voice: (717) 728-9411
Fax: (717) 728-9314

REVISIONS

NO.	DATE	NO.	DATE

SITE MAP FOR
GOOD HOPE VENTURES I, LP
HAMPDEN TOWNSHIP CUMBERLAND COUNTY PENNSYLVANIA

JOB NO. 009012.00

ATTACHMENT B
GOOD HOPE VENTURES I, LP
SITE MAP REZONING AREA
FEBRUARY 22, 2011

SKETCH PLAN
FOR

HAMPDEN SHOPPES AT GOOD HOPE

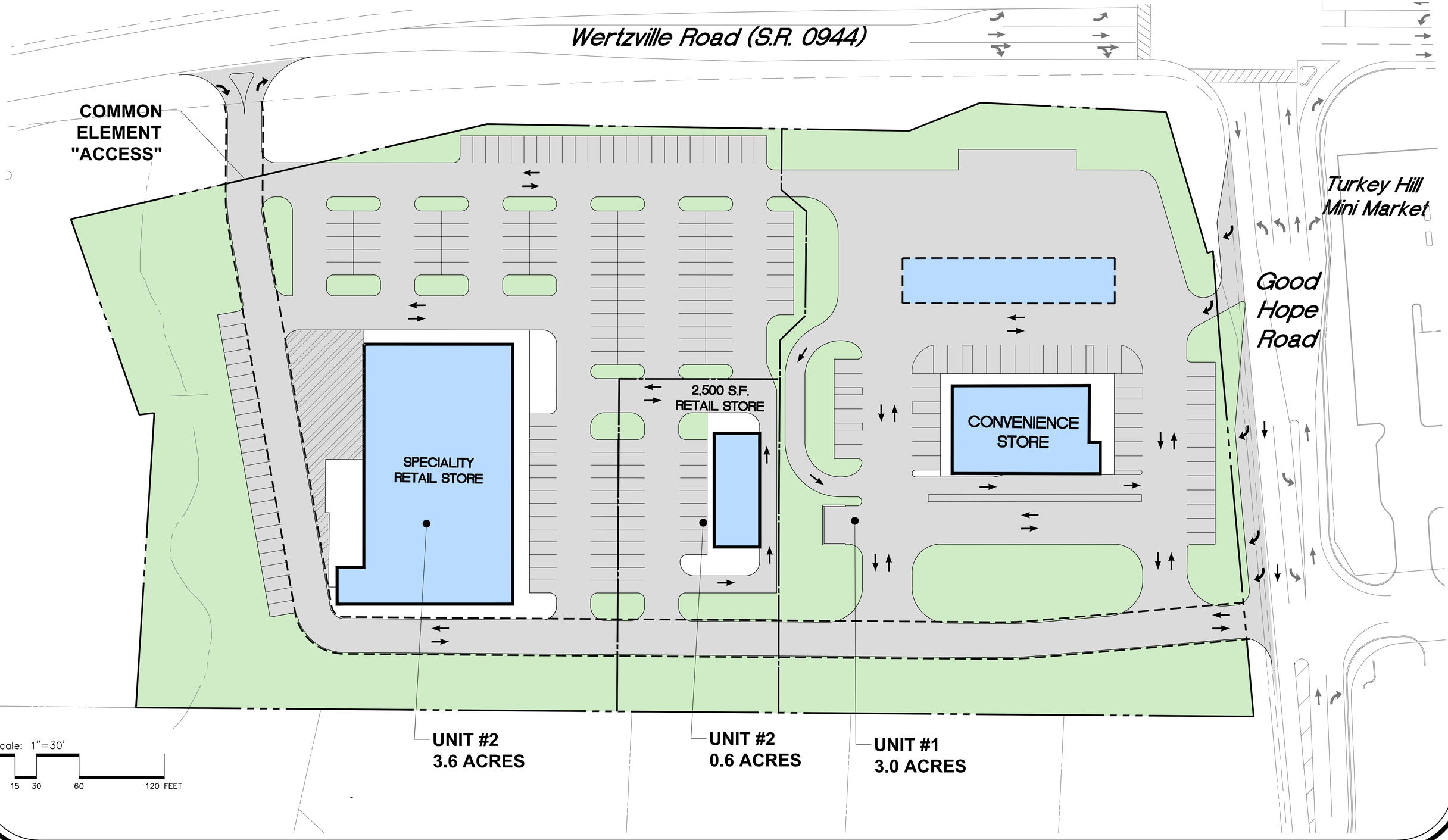
HAMPDEN TOWNSHIP, CUMBERLAND COUNTY, PA
APRIL 1, 2025

ZONING DATA

PROPERTY ZONED= CG-COMMERCIAL GENERAL
MINIMUM LOT AREA= 10,000 SF
MINIMUM LOT WIDTH – 100'
FRONT YARD= 35'
REAR YARD= 30'
SIDE YARD=10'
PUBLIC WATER AND SEWER
MAXIMUM IMPERVIOUS COVERAGE=75%
MAXIMUM BUILDING HEIGHT= 40'

SITE DATA

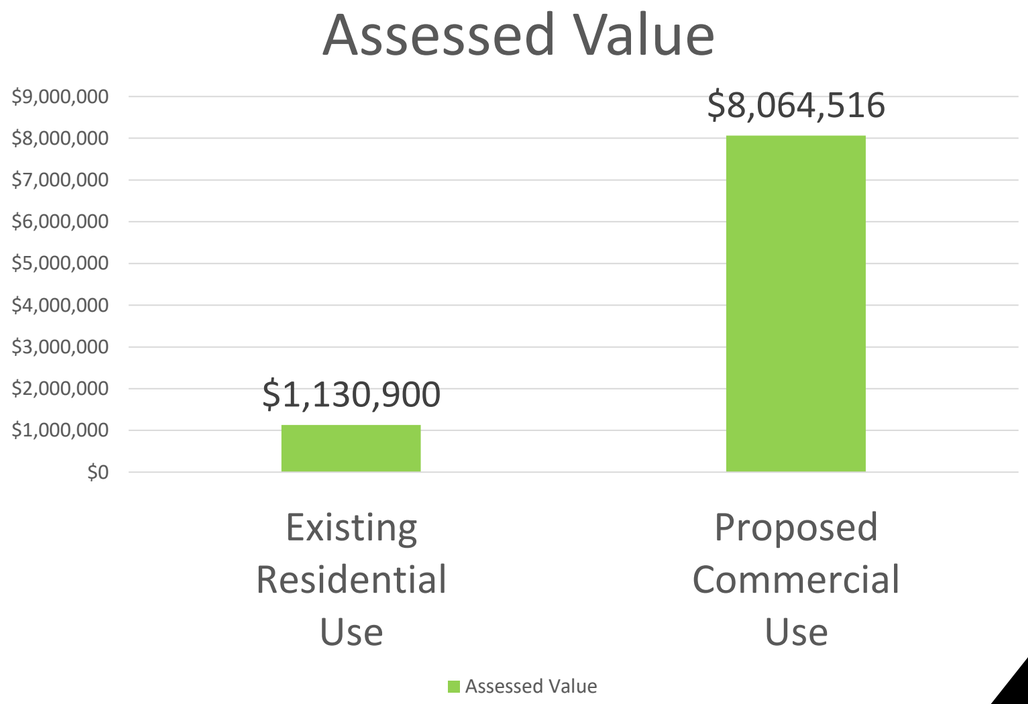
TOTAL SITE AREA= 7.274 ACRES



FISCAL IMPACT PROFILE

Existing Residential vs. Proposed Commercial

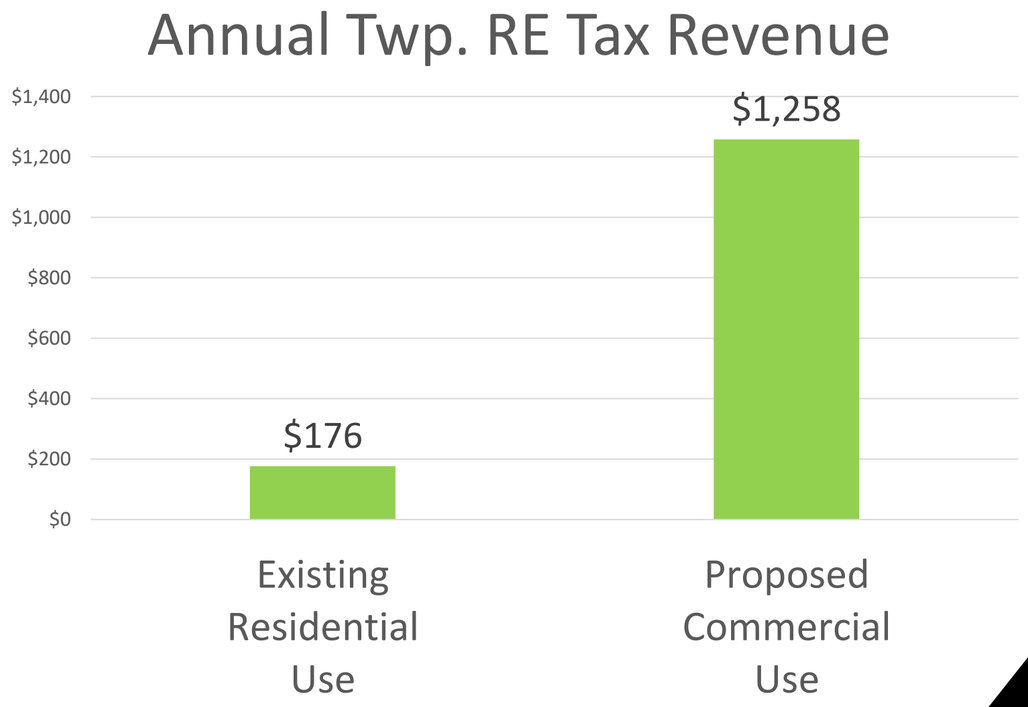
- Proposed commercial use has significantly higher market (and assessed) value than existing residential.



FISCAL IMPACT PROFILE

Existing Residential vs. Proposed Commercial

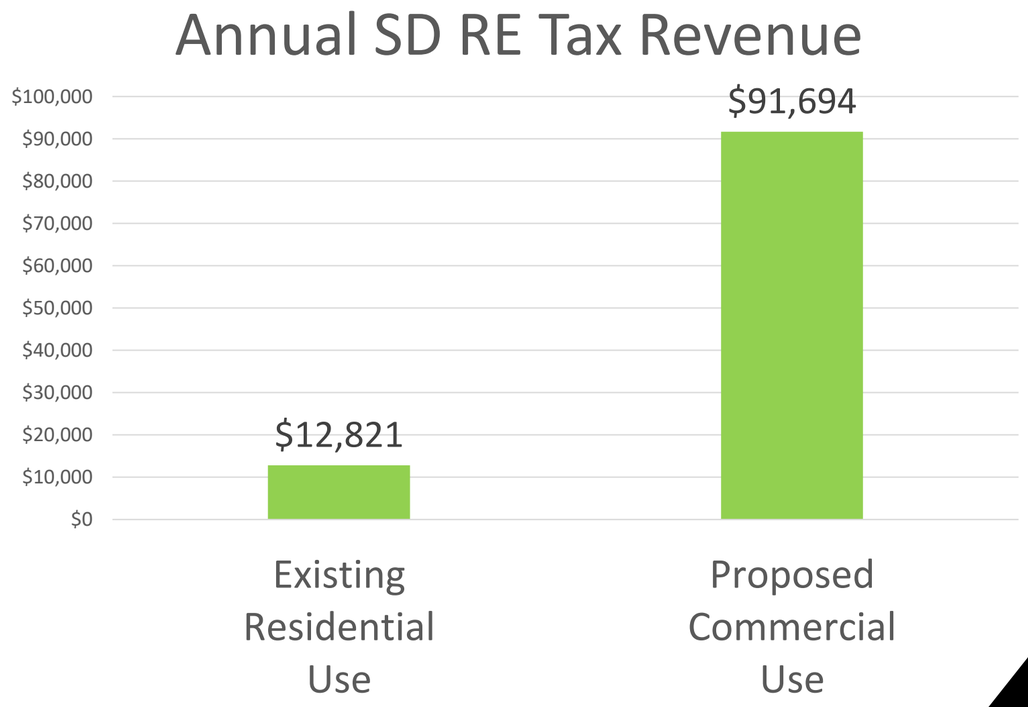
- Proposed commercial use has significantly higher market (and assessed) value than existing residential.
- Higher commercial assessment generates higher Real Estate Tax Revenues to Township…



FISCAL IMPACT PROFILE

Existing Residential vs. Proposed Commercial

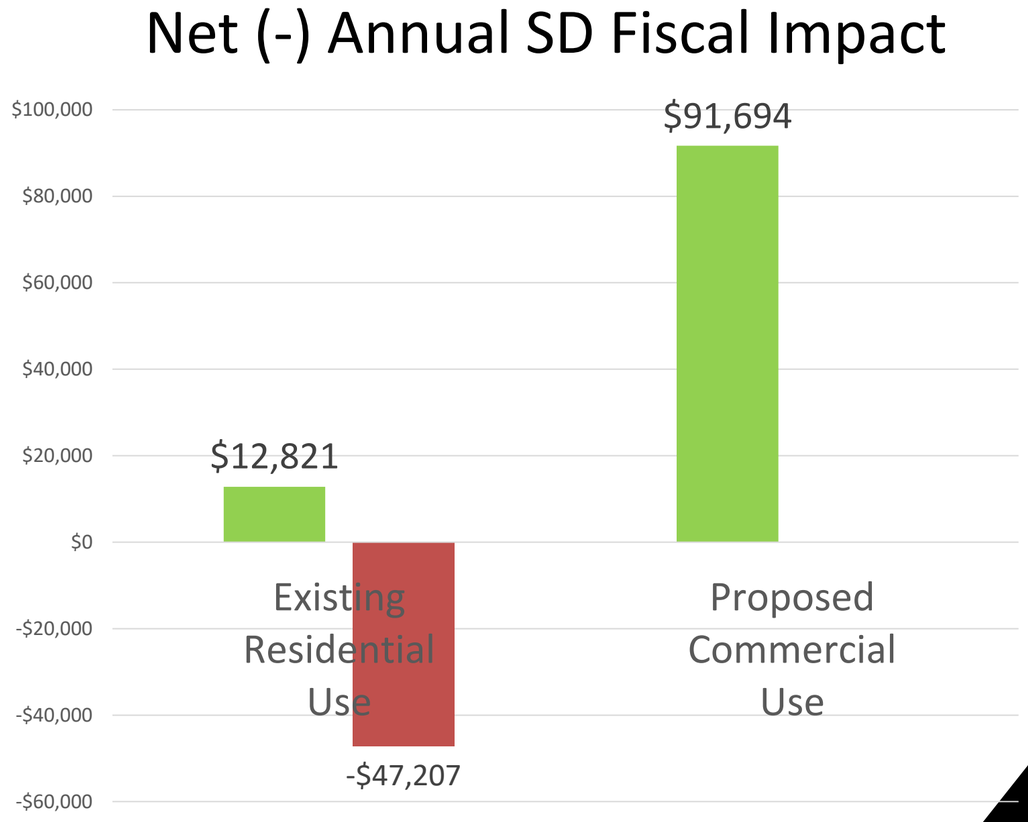
- Proposed commercial use has significantly higher market (and assessed) value than existing residential.
- Higher commercial assessment generates higher Real Estate Tax Revenues to Township… AND to School District.



FISCAL IMPACT PROFILE

Existing Residential vs. Proposed Commercial

- Proposed commercial use has significantly higher market (and assessed) value than existing residential.
- Higher commercial assessment generates higher Real Estate Tax Revenues to Township… AND to School District.
- Residential use adds school-aged children (cost).



BUFFER - SOUTH PROPERTY LINE

GOOD HOPE VENTURES
REAL ESTATE DEVELOPMENT





BUFFER - SOUTH PROPERTY LINE

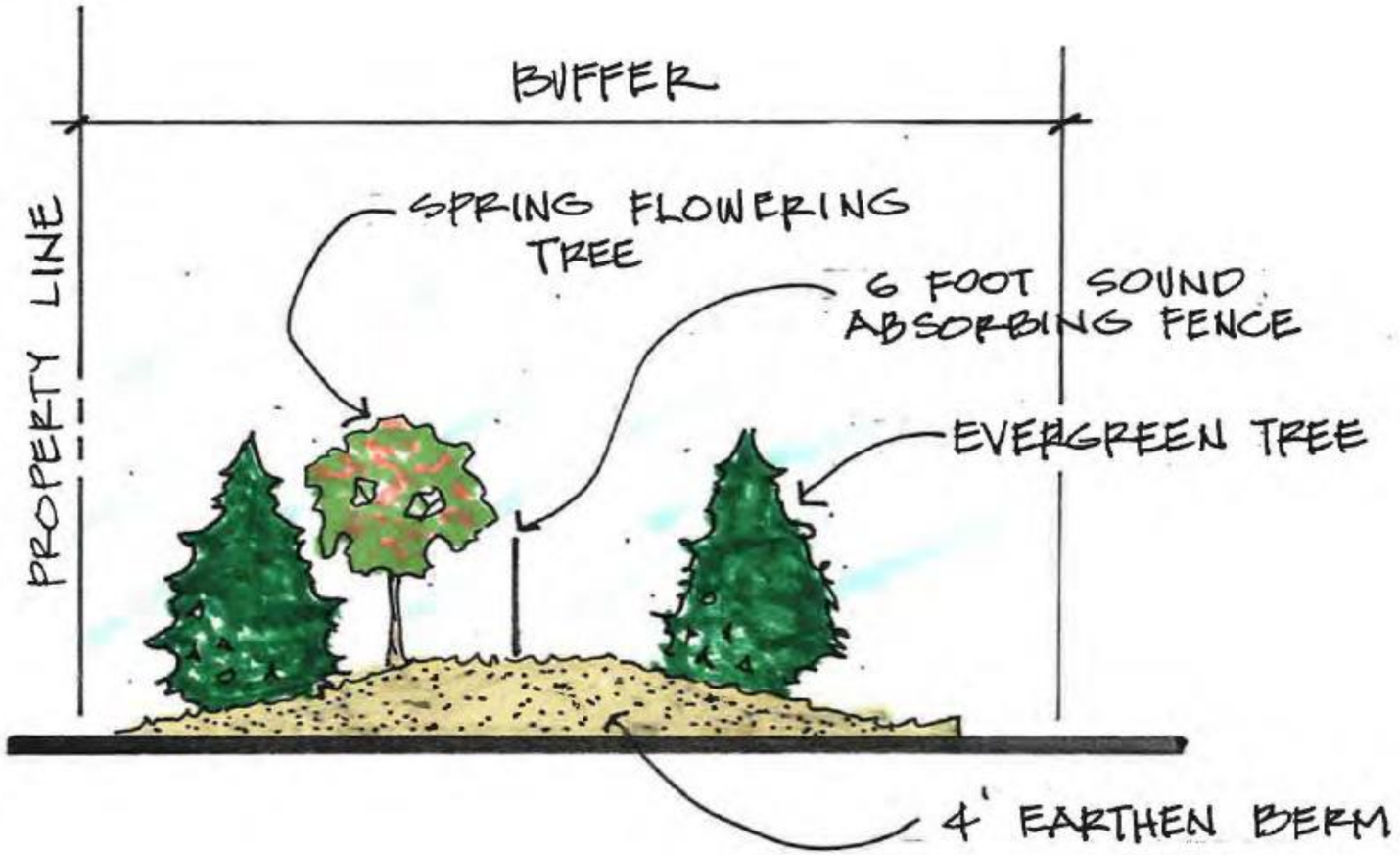


EXHIBIT "9"
ATTACHED

SKETCH PLAN
FOR
HAMPDEN SHOPPES AT GOOD HOPE
HAMPDEN TOWNSHIP, CUMBERLAND COUNTY, PA
DECEMBER 17, 2024

ZONING DATA
PROPERTY ZONED= CG-COMMERCIAL GENERAL
MINIMUM LOT AREA= 10,000 SF
MINIMUM LOT WIDTH – 100'
FRONT YARD= 35'
REAR YARD= 30'
SIDE YARD=10'
PUBLIC WATER AND SEWER
MAXIMUM IMPERVIOUS COVERAGE=75%
MAXIMUM BUILDING HEIGHT= 40'

SITE DATA
TOTAL SITE AREA= 7.274 ACRES

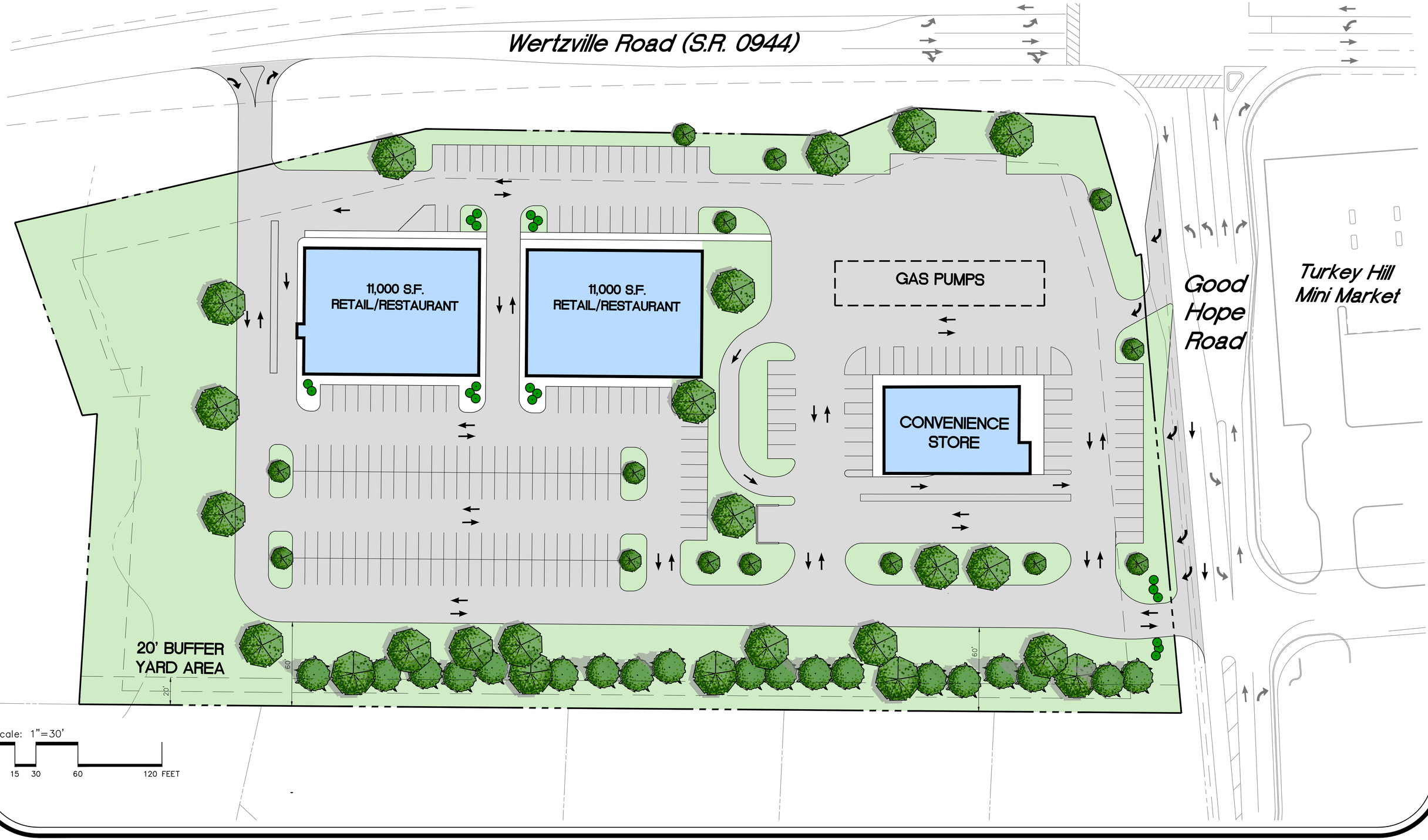


EXHIBIT "10"
ATTACHED

HAMPDEN TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA
BOARD OF COMMISSIONERS

ORDINANCE NO._____

AN ORDINANCE OF THE TOWNSHIP OF HAMPDEN, CUMBERLAND COUNTY, PENNSYLVANIA, AMENDING SECTION 302, PART 3 OF CHAPTER 27 OF THE TOWNSHIP OF HAMPDEN CODE OF ORDINANCES AS ORIGINALLY ADOPTED ON AUGUST 27, 1998, TO AMEND, MODIFY, AND CHANGE THE BOUNDARIES OF THE EXISTING ZONING MAP BY DELETING A PORTION OF THE EXISTING RESIDENTIAL-COUNTRY (R-C) DISTRICT AND BY INCREASING THE COMMERCIAL GENERAL (CG) DISTRICT.

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

SECTION 1. Section 302, Part 3 of Chapter 27 of the Township of Hampden Code of Ordinances as originally enacted and ordained on August 27, 1998, as amended, containing the Hampden Township Zoning Ordinance as codified, is hereby further amended by adding thereto the following subsection:

302. Zoning Map.

A. Changes of Zoning Districts.

(1) The Residential-Country (R-C) District as shown on the Zoning Map is hereby amended by deletion therefrom all that certain tract of land more particularly described in Paragraph (2) below, said tract being designated to be included in the Commercial-General(C-G) District.

(2) The Commercial-General (C-G) District is hereby amended by the addition thereto of all that certain tract of land more particularly described as follows:

AREA OF REZONING FOR GOOD HOPE COMMONS

BEGINNING AT A POINT, said point being located on the western right-of-way line of Good Hope Road (S.R. 1013), a variable width right-of-way, and said point also being the northeastern property corner of lands now or formerly of Jinzhuo He;

Thence from said POINT OF BEGINNING along said lands, lands now or formerly of Chad M. Smith, lands now or formerly of Rodger A, & Gayle C. Kohr, and lands now or formerly of Thomas L & Sheila Daise, North 89 degrees 34 minutes 44 seconds West a distance of 669.42 feet to a point, said point being located on the northeastern property corner of lands now or formerly of Mukul L. & Neelima M. Parikh;

Thence along said lands, North 89 degrees 22 minutes 12 seconds West a distance of 130.14 feet to a point; said point being the southeastern property corner of lands now or formerly of Ronald Koshinskie;

Thence along said lands the following three (3) courses and distances:

1. North 03 degrees 34 minutes 17 seconds East a distance of 207.86 feet to a point;

2. South 83 degrees 55 minutes 47 seconds West a distance of 10.74 feet to a point;

3. North 19 degrees 14 minutes 55 seconds West a distance of 145.88 to a point;

Said point being located on the southern right-of-way line of Wertzville Road (S.R. 0944), a variable width right-of-way; thence along said right-of-way the following four (4) courses and distances:

1. North 77 degrees 08 minutes 41 seconds East a distance of 300.84 feet to a point;

2. South 89 degrees 05 minutes 02 seconds East a distance of 297.07 feet to a point;

3. North 68 degrees 26 minutes 18 seconds East a distance of 53.85 feet to a point;

4. South 87 degrees 10 minutes 50 seconds East a distance of 130.86 feet to a point;

Said point being the western right-of-way line of Good Hope Road (S.R. 1013), a variable width right-of-way; thence along said right-of-way the following four (4) courses and distances:

1. South 16 degrees 21 minutes 40 seconds East a distance of 103.62 feet to a point;

2. North 70 degrees 48 minutes 12 seconds East a distance of 4.12 feet to a point;

3. South 15 degrees 29 minutes 09 seconds East a distance of 64.16 feet to a point;

4. South 05 degrees 09 minutes 37 seconds East a distance of 267.12 feet to a point;

Said point being the POINT OF BEGINNING.

Containing 7.27 acres (316,815.33 square feet).

SECTION 2. The Township Engineer is directed to revise the Zoning Map of Hampden Township to delineate the reclassification and zoning district boundary line changes as made by this Ordinance.

SECTION 3. Except only as amended, modified and changed by the present Ordinance, the Hampden Township Zoning Ordinance as codified shall remain in all other respects in full force and effect.

SECTION 4. This Ordinance shall become effective in accordance with applicable law.

DULY ENACTED AND ORDAINED this _____ day of _____, 2025 by the Board of Township Commissioners of the Township of Hampden.

SIGNATURES COMMENCE ON THE FOLLOWING PAGE

ATTEST:

HAMPDEN TOWNSHIP BOARD OF COMMISSIONERS

_____

Township Secretary

By: _____

PA DEPARTMENT OF AGRICULTURE
ABFP-14, REV. 4/2005

LOCAL GOVERNMENT UNIT USE ONLY

DATE RECEIVED 5/13/25
HEARING DATE
ACTION DATE:

_____ APPROVED W/O MODIFICATION
_____ MODIFIED, THEN APPROVED
_____ REJECTED

PROPOSAL FOR THE ADDITION OF AN AGRICULTURAL SECURITY AREA

This form is to be completed by the landowner(s) who propose(s) to form an agricultural security area under the Agricultural Area Security Law (Act 43 of 1981). Three copies of this form, including the required map (see below) shall be submitted certified mail, return receipt requested, to the township in which the proposed agricultural security area is located. If the proposed area is located in more than one township (municipality) the proposal shall be submitted to all governing bodies affected. The tax parcel number may be obtained from the property tax notice or the county mapping office. If a number cannot be found, the deed reference numbers/account numbers of the property may be substituted. A map showing the boundary of the proposed agricultural area and boundaries of the properties owned by the undersigned landowners within the proposed agricultural security area should be attached to each copy of this form (A county tax map, US Geological Survey topographic map, or other map as specified by the local government). Properties owned by each petitioner shall be identified on each map. In cases of joint ownership, all owners must sign the proposal.

1. Location of the proposed area: West Pennsboro Twp (Township, Borough or City) Cumberland (County) 2. Total acreage in area: 57.22

3. Names and addressed of landowners proposing the area. Use additional paper with just columns if needed. Signers to this proposal give their consent to include the described land in the agricultural security area once it is approved.

Landowner's Name (PRINTED) and Signature (BELOW LINE)	Address (PRINT)	County Tax Parcel ID Number (PIN) & Account Number	Acreage
Daniel J. Erickson	2108 Newville Road	46-07-0475-026	10.33
	Carlisle PA 17015	46-07-0475-086	46.89

Commonwealth of Pennsylvania - Notary Seal
Evelyn M. Swartz, Notary Public
Cumberland County
My commission expires October 27, 2027
Commission number 1163567
Member, Pennsylvania Association of Notaries


Newville Road
Newville Road
400ft

Property Address: NEWVILLE ROAD, WEST PENNSBORO TWP

Parcel ID	46-07-0475-086
Owner	LEES ACRES LLC,
Care Of	
Property Address	NEWVILLE ROAD
Property Address 2	MCKEEHAN & ERICKSON
Property Type	V
Land Use Code	125
Subdivision	
Land Description	LOT 1 PL 201717352
Deed Book and Page	202410318
Deed Acres	46.89
Square Footage	
Taxable Status	T
Clean and Green	1
Land Value $	37,100.00
Building Value $	0.00
Total Value $	37,100.00
Sale Price $	10.00
Sale Date	6/3/2024
Year Built	
Municipality	WEST PENNSBORO TWP
Height in Stories	
Dwelling Type	
Finished Basement	
Basement Garage	
Full Bathrooms	
Half Bathrooms	
Total Rooms	
Bedrooms	
Primary Exterior	
Air Conditioning	
Basement Percentage	
Total Estimated Tax ($)	722.00
County Estimated Tax (Blue) $	106.00
Municipal Estimated Tax (Red) $	18.00
School Estimated Tax (Green) $	598.00

Tax Rates (Estimated)



WEST PENNSBORO TOWNSHIP

2150 Newville Road, Carlisle, PA 17015-7746 ~ Phone: (717) 243-8220 ~ Fax: (717) 243-1592

PUBLIC NOTICE ASA ADDITION REVIEW

FROM: Larry Barrick, Township Manager

West Pennsboro Township Board of Supervisors

DATE: 5-23-2025

Name(s) of Owner(s)	Tax Parcel No.	No. of Acres/Parcel
Daniel J. Erickson	46-07-0475-026	10.33
Daniel J. Erickson	46-07-0475-086	46.89

This announcement will hereby serve to notify the citizens of West Pennsboro Township, Cumberland County, that the West Pennsboro Township Board of Supervisors has received a proposal/proposals for additions to the West Pennsboro Township Agricultural Security Area (ASA) within the Township, pursuant to the Agricultural Security Law, Act 43 of 1981.

The aforementioned proposal(s) is currently on file and available for public inspection at the West Pennsboro Township Municipal Office, located at 2150 Newville Road, Carlisle PA 17015, between the hours of 8:00 am and 4:00 pm.

Any affected Municipality and any landowners who own land that is within, adjacent to, or near the area(s) proposed to be included in the addition(s) to the above-named Agricultural Security Area may propose changes to the proposed addition(s) within 15 days of the date this notice is published. Such proposed changes must be submitted to the West Pennsboro Township Office on or before (15 days from the notice date).

Upon expiration of the aforementioned 15-day period, the proposed addition(s) to the above named Agricultural Security Area and any proposed changes will be submitted to the West Pennsboro Township Planning Commission, the Cumberland County Planning Commission, and the West Pennsboro Township Agricultural Security Area Advisory Committee for review and recommendation. Thereafter, a public hearing will be held by the Township Supervisors to consider the Agricultural Security Area addition proposal, any proposed modifications, and any recommendations from the Planning Commission and the Agricultural Security Area Advisory Committee.

A copy of this notice is posted at the following public places:

1. Country Butcher Shop INC.
2. Plainfield Post Office
3. West Pennsboro Park
4. Township Office
5. Sheetz (Newville)

WEST PENNSBORO TOWNSHIP

2150 Newville Road, Carlisle, PA 17015-7746 ~ Phone: (717) 243-8220 ~ Fax: (717) 243-1592

MEMORANDUM

TO: Cumberland County Planning Department

FROM: Larry Barrick, Township Manager

DATE: June 19, 2025

SUBJECT: Agricultural Security Area (ASA)

Resident Daniel Erickson has applied to request that his two properties be added to the West Pennsboro Township Agricultural Security Area (ASA). The addition request notice was posted in five (5) locations around the Township to allow public input, and to date, the Township has received no input. After a thorough review of each property staff recommends approval of the attached list of properties.

Please review and provide a letter accordingly. Thank you for your time and attention to this matter.

Name(s) of Owner(s)	Tax Parcel No.	Acres/Parcel	Address
Daniel J. Erickson	46-07-0475-026	10.33	2108 Newville Road
Daniel J. Erickson	46-07-0475-086	46.89	Newville Road

Sincerely;

L Barrick Jr

West Pennsboro Township Manager/Zoning & Codes Enforcement Officer

WEST PENNSBORO TOWNSHIP

2150 Newville Road, Carlisle, PA 17015-7746 ~ Phone: (717) 243-8220 ~ Fax: (717) 243-1592

PUBLIC NOTICE ASA ADDITION REVIEW

FROM: Larry Barrick, Township Manager

West Pennsboro Township Board of Supervisors

DATE: 5-23-2025

Name(s) of Owner(s)	Tax Parcel No.	No. of Acres/Parcel
Daniel J. Erickson	46-07-0475-026	10.33
Daniel J. Erickson	46-07-0475-086	46.89

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4. Township Office
5. Sheetz (Newville)

PLANNING DEPARTMENT
Cumberland County

Cumberland County Review Report

Cumberland County Planning Department
310 Allen Road, Suite 101
Carlisle, PA 17013
Telephone: (717) 240-5362

Recommendation: Choose an item.

Name of Amendment:				
West Pennsboro Township New Zoning Ordinance and Map				
Municipality:	*Date Received:*	*Date Reviewed:*	*Reviewed By:*	*Checked By:*
West Pennsboro Township	6/25/2025	8/21/2025	SH, SW, KS	Planning Commission
Type of Amendment:				
New Zoning Ordinance				

Explanation of Amendment:

West Pennsboro Township has submitted a new zoning ordinance and map for review and comments. The township coordinated the effort with CCPD throughout the planning process and provided a preliminary draft ordinance to reduce the number of comments and recommendations.

Consistency:

Cumberland County Comprehensive Plan

The 2024 Cumberland County Comprehensive Plan[1] is organized around the Cumberland Principles. These principles guide effective planning practices which benefit the environment, economic development, and the community. The following table determines consistency between the proposed amendment and the Cumberland Principles.

The Cumberland Principles (Comprehensive plan page number)	**Consistency Determination**
Protect the Best First (page 20)	• The sliding scale in the agriculture district will protect farmland.
Grow In Not Out (page 29)	• Higher densities are permitted in the R1, R2, R3 and MU districts.
Housing for All (page 37)	• All housing types are provided in the zoning ordinance.
Plan for People and Places (page 44)	• The ordinance includes provisions to protect sensitive areas and provide park / recreation areas.
Adapt and Stay Safe (page 64)	• The township has previously adopted a stand-along floodplain ordinance to protect residents and structures from damage.
Open for Business (page 71)	• The ordinance includes a MU, C, I and Q district for economic growth.

[1] https://www.cumberlandcountypa.gov/4888/Comprehensive-Plan

The Cumberland Principles (Comprehensive plan page number)	Consistency Determination
Engage to Improve (page 78)	• The township has held workshop meetings that were open to the public and the required MPC adoption process will be followed prior to adoption.

Western Cumberland County Comprehensive Plan (2007)

West Pennsboro Township should consider updating the comprehensive plan which was adopted in 2007. The character of the land and the growth potential in West Pennsboro Township has changed dramatically since the plan was adopted.

Administrative Comments and Recommendations:

1. Page 28, section 2.02.A. When applicable, the statement provided in the ordinance and on the map should include the date of adoption.
2. Page 34, section 2.06.C.2.a.1. This section should reference the setbacks specified in table 2.06.
3. Page 137, section 3.04.I.4.c and d. The vehicle access requirement and the traffic impact study requirement should refer to the West Pennsboro Township Subdivision and Land Development Ordinance.
4. Page 164, section 3.05.B.8.b This section on decommissioning appears to incorrectly reference solar energy rather than digestors.
5. Page 171, section 3.05.B.14. The numbering should be verified. Section 15 is skipped.
6. Page 186, table 4.02. The column header is cut off and should be legible.
7. Page 207, section 4.13. The numbering should be verified. The list begins with G.

Technical Comments and Recommendations:

8. The township should update its comprehensive plan with roadway classifications that are consistent with those referenced in the draft zoning ordinance.
    a. The township should review the ordinance in its entirety. Several uses require access to a minor arterial or major collector street. The Comprehensive Plan does not identify a major collector street.
    b. Table 6.02 (road classifications, page 261) should be consistent with the comprehensive plan. The street access requirements throughout the ordinance should be adjusted accordingly.
    c. The ordinance has multiple requirements for uses to be on higher order collector and arterial streets. This requirement should be cross referenced with the township's functional classification map. Many of these regulations are not needed and will effectively zone out certain uses.
9. Page 30, section 2.04.A The purpose statement references agricultural uses which require special exception approval due to potential negative impact, but there are no special exceptions in table 3.01. Additionally, page 17 provides special exception use procedures. Is this section necessary given that there are no special exception uses?
10. Page 37, section 2.07.C.2. – This section sets a minimum lot size, however, table 2.07 refers to the township SALDO for manufactured home bulk and area standards. The bulk and area standards should be found in one ordinance and referenced by the other.

11. Page 39, section 2.08.A. The purpose of the mixed-use district (MU) indicates that development is intended to be pedestrian-oriented and compatible with adjacent residential areas. The township should consider requiring parking lots to be located along the side or rear of the properties. Front-facing buildings with sidewalks will encourage pedestrian activity.
12. Page 52, section 2.13.G.1 and 2. The township should consider how to enforce the 1:1 replacement ratios in the riparian buffer. Are plantings required? Will a conservation easement meeting the 1:1 area be required?
13. Page 52, section 2.13.G.4. The township should verify the capacity of the Cumberland County Conservation District and Penn State Cooperative Extension to assess planting plans on behalf of the township before including the agency in the ordinance. What "list" of native plants should be utilized?
14. Page 82, section 3.04.D.2. The township should consider expanding the definition of a convenience store. Recent development in Cumberland County has included large convenience stores with over 100 truck parking spaces. How is a convenience store differentiated from a truck stop? The township should consider limiting the number of truck parking spaces or prohibiting truck parking for a convenience store.
15. Page 93 section 3.04.E. 21.e The township should update the hours of operation to 9:00PM to 7:00AM EST.
16. Page 112, section 3.04.H.4.r. Does the township want to require decommissioning for principal solar and principal wind energy systems? This is a unique requirement not applicable to other uses. This came from the county model but has received questions when in ordinances.
17. Page 117, section 3.04.H.5.b.2.g. The principal wind energy setback requirement from historic features, bird areas and wetlands is excessive, nearly ½ mile. The township should consider reducing the setbacks.
18. Page 148, table 3.07. A truck terminal is listed as a typical warehouse and distribution use. A truck terminal is already addressed in the ordinance and permitted in specified zoning districts on table 3.01. The township should consider removing truck terminal from the list of warehouse and distribution uses.
19. Page 148, section 3.04.I.13.d.2. The ordinance should clarify that the 15 ft high earthen berm should be planted with trees to create a natural screen. The township should review the screening requirements in the subdivision and land development ordinance and determine whether additional screening should be provided for a warehouse and distribution use.
20. Page 149, section 3.04.I.13.h.4. The ordinance requires sufficient off-street parking and loading. The language is vague. The township should consider requiring specified amounts. In addition, the language offers the board of supervisors an opportunity to increase the parking and loading spaces. It appears that this requirement should also address truck staging prior to the entrance to the parking lot. This may occur if a check-in station, or fencing is proposed around a warehouse.
21. Page 163 section 3.05.B.7.e. The township should remove the requirement for the Cumberland County Conservation District to assess digester systems. The Conservation District does not review those plans.
22. Page 166, section 3.05.B.9.e. A drive through facility is listed here as an accessory use. No parking is required for an accessory drive through. Parking requirements should be established for the principal use.
    a. Page 166, section 3.05.B.9.e.5. The ordinance should establish a size for a 'large parking area'.

b. The parking lot landscaping requirements on page 202, section 4.11.D.9.a.3 already require interior landscaping, islands and landscape strips in large parking lots (over 40 spaces).

23. Page 173 section 3.05.B.17.b and c. The township should verify the capacity of the CCCD to assess manure storage designs on behalf of the township before including the agency in the ordinance.

24. Page 177, section 3.06.A.2. Temporary uses, given their limited scale and impact, should not be permitted by conditional use which costs applicants time and money. In addition, temporary uses are not listed on table 3.01 as a conditional use.

25. Page 179, section 3.06.B.2.e. The requirement of one trash receptacle per 1,000 square feet is restrictive, especially for a temporary use, and not likely to be enforced by the zoning officer. The township should consider simply requiring the applicant to provide a plan for collecting and disposing of trash that avoids litter and debris accumulation.

26. Page 180, section 3.06.B.4.a. The operating hours of 9am-5pm may be overly restrictive for outdoor events. For example, carnivals typically extend into the evening hours.

27. Page 185, section 4.03.E.4. This section indicates that on a corner lot, the side yard abutting the street shall be considered a front yard. The language should indicate that <u>all yards</u> abutting a street should be front yards (see page 266, figure 6.09).

    In addition, the ordinance should address the yards that do not abut a street. Will the remaining yards be considered rear or side yards? Page 266, figure 6.09 indicates that the remaining yards can be side or rear yards. This should also be included on page 185

28. Page 185, section 4.03.E.9.b. This section indicates a setback requirement for trees and shrubs on non-agricultural purposes. The regulation is excessive and difficult to enforce.

    a. Is a landowner permitted to allow existing woodland along a property line? How will the township determine whether trees are planted, or naturally occurring?

    b. How is a row of planted trees differentiated from a fencerow that becomes overgrown?

    c. How does the township intend to enforce this requirement. Since a zoning permit is not required to plant trees, it could take some time before the township is informed of a violation of this requirement. The long-term removal of large trees will be a cost burden for the homeowner.

    d. Is a residential property owner permitted to plant trees and shrubs along a property line to alleviate the odors caused from manure, food processing residuals and other acceptable fertilizer applications that are placed directly along the property boundary?

    The township should consider removing the setback requirement for trees and shrubs on adjoining lots and consider educating the farmers about the NRCS field border program which offers financial incentives for field borders.

29. Page 186, section 4.05.A. The township should consider dropping the required clustering in the R1 zone. Clustering creates open space that carries a maintenance burden that must be assumed by the township or homeowners. Few developments in West Pennsboro Township have homeowners' associations, thus, individual homeowners will be saddled with maintaining open space that they didn't want to create and that does not serve a public purpose. The additional requirements for a cluster development will drive up costs for smaller subdivisions typical of a low density development in the township.

    Clustering should be an option that is incentivized with higher density rather than mandated. Further, cluster developments should have required homeowners' associations or ownership organizations for

the open space. The required clustering is not found in any other ordinances in Cumberland County or a commonly found requirement in zoning ordinances in the state.

30. Page 186, table 4.01. It appears that the R2 district has been removed as a conservation design option. If applicable, section 4.05 should be reviewed and the references to the R2 district should be deleted.
    a. Page 188, section 4.b
    b. Page 192, section 9.a.3
    c. Page 192, table 4.03
    d. Page 192, section 11
31. Page 186, table 4.02. The table addresses the total number of lots that may be subdivided and/or principal dwelling units that may be established. The township should consider addressing a condominium style land development (that only contains a single lot). FYI: This type of development was proposed in another township in Cumberland County.
32. Page 187, section 4.05.B.3. It is unclear how residential rights will be tracked administratively if contiguous tax parcels (held in single ownership and used to determine the number of lots to be established) are not part of the subdivision plan.
33. Page 187, section 4.05.B.3. The right of further subdivision information should be required on all plan submissions. The township should not presume development rights.
34. Page 189, section 4.05.C.5.b.1 The township should clarify what is considered "productive agricultural soils." The preservation of prime agricultural soils as defined by USDA-NRCS should be encouraged.
35. Page 192, section 4.05.9.b. This section indicates that the board of supervisors may permit a density bonus of one additional dwelling unit per acre for each 2,500 lineal feet of pedestrian / bicycle trail for public use.
    a. What will determine whether the board of supervisors permits the density bonus? Is this totally discretionary? The ordinance should include criteria to meet the bonus.
    b. Is the density determination made during the preliminary planning stage, or is a master plan / conceptual plan required?
36. Page 192, table 4.04. If clustering is required in the R1 district, move this table to the bulk and area table for that district to improve ease of use. Note that according to article 2, multi-family development is only permitted in the MU district where clustering is not required or permitted. Likewise, townhouses are not permitted in the R-1 zone.

    If multi-family and townhouses are permitted in all conservation design developments, the ordinance should clarify. In addition, it is recommended that these units are only required where public water and public sewer are available.
37. Page 193, section 4.07.A. Are flag lots only permitted in the A district? This may create variance requests. The township should consider permitting flag lots in other districts.
38. Page 194, section 4.08. Remove this reference and keep lighting standards exclusively in the SALDO. A nonconforming lighting fixture process isn't necessary.
39. Page 204, section 4.11.E.1.e. This section permits 40% of the required parking spaces to be set aside for compact vehicles on spaces that are 17 ft x 8 ft. There are examples of 'compact vehicle' parking spaces in the county that are not followed or enforced.

a. The township should determine how the parking restriction (compact vehicles) will be enforced.

b. What vehicles are considered 'compact'?

c. Is signage required to indicate the limitation to compact vehicles?

d. Consider dropping this requirement as it serves no purpose.

40. Page 205, section 4.11.E.4.a. This section indicates that curbing within a parking lot shall be required if determined necessary by the township engineer. The township should establish criteria for determining whether curbing is required (zoning districts, number of spaces).

    a. The subdivision and land development ordinance requires curbing in the R1, R2, MU, C, and I districts (section 506.5.E.5.a).

41. Page 205, section 4.11.E.4.d. This section indicates that the parking lot minimum curb radii shall be designed for appropriate use as approved by the township engineer. The township should establish a minimum radius for curbing in a parking lot.

42. Page 208, section 4.13.L. The township should review the requirements for cargo containers.

    a. It appears that section L.1 limits cargo containers for temporary use (90 days with an additional 90-day extension option). Is the applicant required to install a stone or paved base and provide a 6 ft. screen for a use that may only be permitted for 180 days?

    b. It appears that cargo containers with wheels are subject to the same time limitation as cargo containers without wheels. Is there a reason to differentiate between these cargo container types?

43. Page 214, section 4.19. The township should compare the requirements for a temporary portable storage unit with the requirements for a cargo container in zoning ordinance section 413.L. Each use should include a definition that differentiates the container types.

44. Page 217, section 4.21. The township should compare the proposed vehicular access requirements with the requirements for driveways and service drives (SLDO 510). Duplicative and conflicting requirements should be removed.

    a. For example, SLDO section 510.1 requires a driveway to be set back 5 feet from side property lines. Zoning section 4.21.C.3 requires a 3 ft. setback.

45. Page 223, table 5-1 and 5-2. The township solicitor should review the sign types to verify that the regulations are content neutral. The following signs should be considered.

    a. Signs identifying public and semi- public uses (e.g., schools, churches, utilities, hospitals, libraries, parks, fire stations, post offices, and other similar uses).

    b. Roadside stand signs for the sale of agricultural products upon a principal farm property.

    c. Garage/yard sale signs upon properties conducting such sales.

    d. Political Campaign Signs.

46. Article 6, Definitions

    a. All terms in the definitions should be reviewed to make sure they are used in the ordinance. If the term is not used, it should be removed.

    b. Any regulation in the definitions should be moved to the respective part of the ordinance that covers that issue.

c. The following definitions could be considered uses. The township should consider adding these to table 3.01 to avoid exclusionary challenges.

    i. Mixed use development

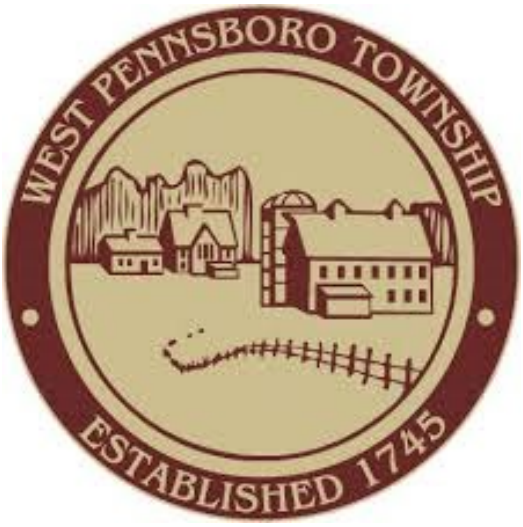
    ii. Open space development

d. Page 261, table 6.02. The township should maintain consistency with planning documents and ordinances. Unless the township adopts a new comprehensive plan, the definition of 'street' includes a roadway classification table that should be consistent with the existing comprehensive plan.

    In addition, State Route 533 should be classified on the table.

47. The landscaping requirements for a tree every 1,000 square feet of nonresidential building area have been removed. The requirements in the SLDO do not include a similar requirement for additional tree planting. The township should consider adding this requirement for nonresidential uses.

"Section 505 (b) and 609 (g) of the Municipalities Planning Code requires that amendments to municipal ordinances be filed with the county planning agency. If this amendment is approved, please forward a final copy to the county planning office so we may update our records."



West Pennsboro Township
Cumberland County, PA

DRAFT – 24 JUN 2025

For Publication

Zoning Ordinance

ENACTED:
EFFECTIVE:

WEST PENNSBORO TOWNSHIP ZONING ORDINANCE

WEST PENNSBORO TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA

ACKNOWLEDGEMENTS

Board of Supervisors

Donald S. Agar, Chairman
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Michael Baker International, Inc.

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ARTICLE 1 GENERAL ZONING PROVISIONS

Section 1.01 Short Title

This Ordinance shall be known and may be cited as the "West Pennsboro Township Zoning Ordinance", hereinafter referred to as "Ordinance" as enacted by West Pennsboro Township Ordinance No. _____.

ENACTED:[SPECIFY DATE OF ENACTMENT]
EFFECTIVE:[SPECIFY EFFECTIVE DATE OF ORDINANCE]

Section 1.02 Repealer

(A) West Pennsboro Township Zoning Ordinance 2008-01, as amended by Zoning Ordinance Amendment 2011-04 and 2016-03, is hereby repealed.

(B) Any West Pennsboro Township ordinance or part thereof inconsistent herewith is hereby repealed to the extent of such inconsistency.

(C) Nothing in this Ordinance hereby adopted shall be construed to affect any suit or legal proceeding now pending in any court, or any rights accrued, or liability incurred, or any cause of action accrued or existing under any Ordinance hereby repealed; nor shall any right or remedy of any character be lost, impaired or affected.

Section 1.03 Purpose

(A) This Ordinance is intended to guide future growth and development by regulating land uses within West Pennsboro Township for the improvement of the health, safety, comfort, morals, and general welfare of its citizens. This Ordinance has been enacted after considering the community development objectives specified in the West Pennsboro Township Comprehensive Plan, as adopted and amended by the West Pennsboro Township Board of Supervisors.

(B) In addition to the stated community development objectives, the following items were duly considered in drafting and enacting this Ordinance:

1. To promote, protect, and facilitate any or all of the following:

    a. The public health, safety, and general welfare;

    b. The provisions of adequate light and air, access to incidental solar energy,

    c. The provision of public services and facilities, including vehicle parking, and loading space, transportation, water, sewerage, schools, recreational facilities, public grounds, the provision of a safe, reliable, and adequate sewer and water supply for domestic, commercial, and other public requirements; and

    d. The preservation of the natural, scenic, cultural, and historic resources and landscapes and the protection of forests, wetlands, aquifers, and floodplains.

2. To provide for the use of land within West Pennsboro Township for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, manufactured housing, provided, however, that this Ordinance shall not be deemed invalid for the failure to provide for any other specific dwelling type.

3. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for the development of a variety of residential and nonresidential Uses including agriculture, forestry, and associated productions thereof.

Section 1.04 Authority and Disclaimers

(A) This Ordinance is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, Act 247, "The Pennsylvania Municipalities Planning Code," July 31, 1968, as amended, hereinafter referred to as "MPC".

(B) *Disclaimer*. It is recognized that: the Act of June 22, 1937 (P.L. 1987, NO. 394) known as "The Clean Streams Law"; the Act of May 31, 1945 (P.L. 1198, No 418) known as the "Surface Mining Conservation and Reclamation Act"; the Act of April 27, 1966 (1st Special Session, P.L. 31, No. 1) known as "The Bituminous Mine Subsidence and Land Conservation Act"; the Act of September 24, 1968 (P.L. 1040, No. 318) known as the "Coal Refuse Disposal Control Act"; the Act of December 19, 1984 (P.L. 1140, No. 223) known as the "Non-coal Surface Mining Conservation and Reclamation Act"; the Act of June 30, 1981 (P.L. 128, No. 43) known as the "Agricultural Area Security Law"; the Act of June 10, 1982 (P.L. 454, No. 133) entitled "An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances": and the Act of May 20, 1993 (P.L. 12, No 6) known as the "Nutrient Management Act" preempt zoning ordinances. Therefore, suggestions, recommendations, options or directives contained herein are intended to be implemented only to the extent that they are consistent with and do not exceed the requirements of those Acts. Nothing contrary to those Acts shall be mandated by this Ordinance.

(C) *Agricultural Protection Disclaimer*. In addition to the above disclaimers, where certain lands within West Pennsboro Township are used for Agriculture production, owners, residents, and other users of such lands may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including, but not limited to, noise, odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides and pesticides. Owners, occupants, and users of this property shall be prepared to accept such inconveniences, discomfort, and possibility of injury from normal agricultural operations, and are hereby put on official notice that Section 4 of the Pennsylvania Act 133 or 1982 "The Right to Farm Law" and the Agriculture Communities and Rural Environment (ACRE), PA Act 38 of 2005, may bar them from obtaining a legal judgment against such normal agricultural operations.

Section 1.05 Applicability

(A) From and after the effective date of this Ordinance, the use of all land and every Building or Structure or portion of a Building or Structure, altered with respect to height and area, added to, or relocated, and every use within a Building or Structure or use accessory thereto, in the Township shall be in conformity with the provisions of this Ordinance. However, this Ordinance shall not apply to any use conducted, owned and/or operated by the Township or any municipal authority created solely by the Township.

(B) Any lawfully existing use, Building or land not in conformity with the regulations on the effective date of this Ordinance herein prescribed shall be regarded as nonconforming but may be continued, extended, or changed subject to the special regulations herein provided with respect to nonconforming Buildings, Lots, Structures, or uses.

(C) *Inapplicability of Ordinance to Township and Municipal Authorities of the Township*.

1. This Ordinance shall not apply to the uses, lands, and structures of the Township.

2. This Ordinance shall not apply to the uses, lands, and structures of any municipal authority created solely by the Township.

Section 1.06 Interpretation

(A) The regulations specified within this Ordinance shall be considered minimum regulations and all provisions shall be applied uniformly for each class of uses or structures as prescribed by Section 605 of the PA Municipalities Planning Code.

(B) To determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the Township, in favor of the property Owner and against any implied extension of the restriction.

Section 1.07 Severability

Should a court of competent jurisdiction declare any section, subsection, or provision of this Ordinance invalid or unconstitutional, this decision shall not affect the validity or constitutionality of this Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

Section 1.08 Conflict

(A) It is not intended by this Ordinance to repeal, abrogate, annul, or interfere with any existing ordinances or resolutions, or with any rule, regulation, or permit adopted or issued thereunder, except as provided, an only to the extent permitted by MPC Section 106.03. Where this Ordinance imposes greater restrictions upon the use or development of Buildings or land, or upon the height and bulk of Buildings or prescribes large open spaces than the provisions of such other ordinance, resolution, rule regulation or permit then the provisions of this Ordinance shall control.

(B) Furthermore, except as provided for in Article 4 of this Ordinance, if a discrepancy exits between any regulations contained within this Ordinance and any other Township regulations, the regulation that imposes the greater restriction shall apply.

Section 1.09 Zoning Officer Duties and Powers

(A) The provisions of this Ordinance shall be administered by the Township's Zoning Officer. For the purposes of this Ordinance, the term Zoning Officer shall also include the term Assistant Zoning Officer to enforce provisions of this Ordinance, including, but not limited to, investigating complaints and alleged violations thereof, issuing enforcement notices, instituting, and prosecuting enforcement proceeding and violations of this Ordinance and verifying complaints, citations and other legal instruments and documents relating thereto.

(B) The Zoning Officer shall not hold any elected office in the Township, shall be appointed at the first meeting of the Board of Supervisors in January and shall serve until the first meeting day of January the next following year, and shall thereafter be appointed annually to serve a term of one (1) year until a successor is appointed. The Zoning Officer shall meet qualifications established by the Board and shall be able to demonstrate to the satisfaction of the Board a working knowledge of municipal zoning. The Zoning Office shall receive just payment and compensation as approved by resolution of the Board of Supervisors.

(C) The Zoning Officer shall administer this Ordinance in accordance with its literal terms. The Zoning Officer shall ensure compliance with, and issuance of all permits required by this Ordinance. The Zoning Officer may institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment by the Township.

(D) *Duties and Responsibilities*. The administration and enforcement duties and responsibilities of the Zoning Officer shall be as follows:

1. *Process Applications*. To receive, examine and process all zoning permit and certificate of use applications as provided by the terms of this Ordinance. The Zoning Officer shall also issue zoning permits for special exception and Conditional Uses, or for variances after the same have been approved.

2. *Maintain Official Records*. To maintain and be responsible for all pertinent records on zoning matters in the Township. These records shall include, but not be limited to, all applications received, copies of all Zoning Permits and Certificates of Zoning Compliance issued, copies of orders and findings of the Zoning Hearing Board, written complaints of alleged violations, records of all inspections made, a current copy of the Zoning Ordinance, and all amending ordinances, the official Zoning Map, and all other pertinent information. The records of this office shall be available for the use of the Township government and for inspection of any interested party during normal office hours. The Zoning Officer shall at least annually submit to the Board of Supervisors a written statement of all Permits and Certificates of Zoning Compliance issued and violations and stop-work orders recommended or promulgated.

3. *Inspections*. Prior to issuing any Zoning Permit the Zoning Officer may at their discretion inspect or cause to be inspected all buildings, structures, signs, or land and portions thereof for which an application has been filed for a Zoning Permit or a Certificate of Zoning Compliance. Thereafter, the Zoning Officer may make such inspections during the completion of the work for which a Zoning Permit has been issued. Upon completion of such work and before issuing a Certificate of Zoning Compliance, a final inspection shall be made and all violations of the approved plans or Zoning Permit shall be noted and the holder of the Zoning Permit shall be notified of the discrepancies.

4. *Inspect Nonconformities*. Upon the direction of the Board of Supervisors, to inspect nonconforming uses, structures, and lots, and to keep a filed record of such nonconforming uses and structures, together with the reasons why the Zoning Officer identified them as nonconformities, as a public record and to examine them periodically, with the view of eliminating the nonconforming uses under the existing laws and regulations.

5. *Assist Local Officials*. Upon the request of the Board of Supervisors or the Zoning Hearing Board, present to such bodies facts, records, and any similar information on specific requests, to assist such bodies in reaching their decisions.

6. *Maintain Up-to-Date Ordinance*. To be responsible for keeping this Ordinance and the Official Zoning Map up to date, including any amendments thereto.

7. *Floodplain Overlay District Variance Reporting*. Upon the granting by the Zoning Hearing Board of a variance pertaining to the Floodplain Overlay District, the Zoning Officer shall notify the Applicant in writing within fifteen (15) days that:

    a. The granting of the variance may result in increased premium rates for flood insurance; and

b. Such variances may increase the risks to life and property, pursuant to Section 2.12 Floodplain Overlay District, of this Ordinance.

8. *Floodplain Overlay District Report to PEMA*. Upon the approval by the Zoning Hearing Board of a special exception, or upon the approval of a Conditional Use by the Board of Supervisors for development located within the Floodplain Overlay District, to send written notice of the approval by registered mail to the Pennsylvania Emergency Management Agency.

9. *Biannual Report to FIA*. To remain eligible for the National Flood Insurance Program, the Zoning Officer shall submit, if required, a biannual report to the Federal Insurance Administration (FIA) concerning the status of the Program in the Township (the report form shall be provided by the Federal Insurance Administration).

10. *Preliminary Opinion*. To render a preliminary opinion regarding a proposed land use in accordance with MPC Section 916.2 Procedure to Obtain Preliminary Opinion.

11. *Investigate Complaints*. When in receipt of a signed written complaint stating fully the cause and basis thereof, to investigate alleged violations of this Ordinance. If a signed, written complaint is received, said investigation shall be completed within fifteen (15) days of said complaint. A written report of all investigations of this Ordinance shall be prepared and filed by the Zoning Officer and a copy sent to the Board of Supervisors. If after the investigation the Zoning Officer determines that a violation has occurred, the Zoning Officer shall take action as provided for by this Ordinance.

Section 1.10 Zoning Permits

(A) *General*. A zoning permit shall be required for any of the following activities:

1. A change in use of land or Structure;

2. The erection, placement or construction of a Structure (principal or accessory) or portion thereof, but excluding satellite dish antennas that are less than one (1) meter in diameter;

3. The improvement or alteration of any existing Structure (principal or accessory) where such improvement or portion thereof increases the amount of space which the Structure encloses;

4. The alteration or development of any improved or unimproved real estate, including, but not limited to, mining, dredging, filling, grading, paving, excavation, or drilling operations greater than 5,000 sq. ft. or greater than 1,000 sq. ft. when the subject project is located within one hundred (100) feet of a designated water of the Commonwealth.

5. The erection or alteration of any signs specified in Article 5 of this Ordinance as requiring a zoning permit;

6. The construction or installation of animal waste impoundments, lakes, ponds, dams, or other water retention basins; and/or,

7. The conduct of any forestry use as defined herein.

(B) *Permit Exemptions*. No zoning permit shall be required for repairs or maintenance of any Structure or land provided such repairs do not change the use or the exterior dimensions of the Structure, or otherwise violate the provisions of this Ordinance.

(C) *Form of Application*. The Application for zoning permits shall be made in writing to the Zoning Officer. The application, including a plot plan, for a Zoning Permit shall be submitted in such form as the Zoning Officer may prescribe.

(D) *Permit Review Deadline*. Such zoning permits shall be issued or rejected within ninety (90) days from date of application.

(E) *Permit Conformity*. No zoning permit shall be issued except in conformity with the regulations of this Ordinance, except after written order from the Zoning Hearing Board or the courts.

(F) *Permit Burden of Proof*. In all instances in which the Zoning Officer expresses a reasonable doubt as to the ability of a proposed use to meet all the requirements of this Ordinance, it will be incumbent upon the Applicant to furnish adequate evidence in support of the application. If such evidence is not presented, the zoning permit will be denied.

(G) *Authorization to Apply*. The parcel or parcels shall be in a single and full ownership, or proof of option shall be furnished at the time of application. The full names and addresses of the landowner or Developer, and of the responsible officers, if the landowner or Developer is a corporate body, shall be stated in the application.

(H) *Permit Referral*. The Zoning Officer may call upon other Township staff and/or Township-appointed consultants in the review of submitted materials for applications.

(I) *Permit Revocation*. The Zoning Officer may revoke a permit or approval issued under the provisions of this Ordinance in case of any false statement or misrepresentation of fact in the application, or on the plans on which the permit or approval was based, or for any other cause set forth in the Zoning Ordinance.

(J) *Required Permit Fees*. No permit shall be issued until the fees prescribed by the Board of Township Supervisors approved by resolution shall be paid to the Township. The payment of fees under this section shall not relieve the Applicant or holder of said permit from payment of other fees that may be required by this Ordinance or by any other ordinances or law.

(K) *Issuance / Rejection of Permits*. Upon receipt, the Zoning Officer shall examine the permit application within a reasonable time after filing. If the application or plans do not conform to the provisions of all pertinent local laws, the Zoning Officer shall reject such application in writing, stating the reasons therefore. The Zoning Officer shall inform the Applicant of their right to appeal to the Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work and/or use conforms to the provisions of the Zoning Ordinance, and all laws and ordinances applicable thereto, the Zoning Officer shall issue a permit therefore as soon as practical, but not later than ninety (90) days from receipt of the application.

(L) *Reconsideration of Application*. An Applicant whose request for a permit has been denied by the Zoning Officer may make a later application for a permit, provided all deficiencies which were the basis for the prior denial of the permit have been eliminated. The Zoning Officer shall not be required to make a new inspection of the application if this condition is not met.

(M) *Expiration of Permit*. The permit shall expire after one (1) year from the date of issuance; provided, however, that the same may be extended every six (6) months for a period not to exceed an additional one (1) year.

(N) *Compliance with Ordinance*. The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel, or set aside any of the provisions of the Zoning Ordinance, except as stipulated by the Zoning Hearing Board through the issuance of an approved variance.

(O) *Compliance with Permit and Plot Plan*. All work or uses shall conform to the approved application and plans for which the permit has been issued, as well as the approved plot plan.

(P) *Display of Zoning Permit*. All approved zoning permits shall be prominently displayed on the subject property during construction, renovation, reconstruction, repair, remodeling or the conduct of other site improvements. Such permit displays shall occur within five (5) days of permit issuance, or prior to the commencement of actual work on the site, whichever occurs first. Such permit display shall be continuous until the site receives its Certificate of Zoning Compliance.

(Q) *Availability of Zoning Permit*. The Zoning Officer shall maintain a copy of all active Zoning Permits for inspection.

(R) *Compliance with Applicable State and Federal Requirements*. No Zoning Permit shall be issued unless evidence has been submitted that the Applicant has complied with all applicable laws, rules, and regulations of the State and Federal governments.

(S) *Temporary Use Permits*. It is recognized that it may be in accordance with the purpose of this Ordinance to permit temporary activities for a limited period of time, which activities may be prohibited by other provisions of this Ordinance. If such uses are of such a nature and are so located that, at the time of application, they will:

1. In no way exert a detrimental effect upon the uses of land and activities normally permitted in the applicable zoning district(s), and,

2. Contribute materially to the welfare of the Township, particularly in a state of emergency, under conditions peculiar to the time and place involved, then, the Board of Supervisors may direct the Zoning Officer to issue a permit for a period not to exceed six (6) months. Such permits may be extended not more than once for an additional period of six (6) months.

(T) *Application Requirements*. Zoning permit applications shall contain a general description of the proposed work, development, use or occupancy of all parts of the Structure or land, and shall be accompanied by plot plans in duplicate drawn to scale and showing the following as may be applicable to the requested permit:

1. The actual dimensions and shape of the lot to be built-upon;

2. The exact size and location on the lot of buildings, structures, fences, signs, and areas of land use, existing and/or proposed extensions thereto;

3. The number of dwelling units or other units of occupancy (e.g., commercial, industrial, institutional, agricultural, accessory uses and etc.) if any, to be provided;

4. The location and proposed surfacing of driveways and access drives and copies of any highway occupancy permits as required by local, county and/or state agencies;

5. The height of all structures, buildings, and/or signs;

6. Distances of buildings and structures from lot lines and street right-of- way lines;

7. Off-street parking and loading areas and access thereto, including grades and proposed surfacing;

8. Outdoor areas devoted to storage of goods, materials and/or wastes;

9. Utility systems affected and proposed, including primary and back-up on- lot and/or public sewage disposal and water supply systems;
10. Alteration or development of any improved or unimproved real estate;
11. Lot coverage;
12. Site lighting, including lighting of signs;
13. Floor area devoted to each proposed use and unit of occupancy for both principal and accessory uses;
14. Recreation areas;
15. Screens, buffer yards, landscaping, erosion control filter strips and streamside buffers;
16. Means of pedestrian access;
17. Information relating to needed Conservation Plans, Nutrient Management Plans and/or Erosion and Sediment Pollution Control Plans;
18. Information relating to any zoning approvals obtained from the Zoning Hearing Board or the Board of Supervisors;
19. Proof of approval from the PA Department of Labor and Industry, when required by such agency;
20. Copies of any applicable subdivision/land development plan;
21. Workers Compensation Certificates; and,
22. All other information necessary for the Zoning Officer to determine conformance with and provide for enforcement of this Ordinance.

(U) *Floodplain Overlay*. If the proposed development, excavation or construction is located within the Floodplain Overlay District, the following information, in addition to the aforementioned application requirements, is specifically required to accompany all applications:

1. The accurate location of the floodplain and floodway;
2. The elevation, in relation to the National Geodetic Vertical Datum of 1929 (NGVD), of the lowest floor, including basements; and,
3. The elevation, in relation to the NGVD, to which all structures and utilities will be flood proofed or elevated.

(V) *Excavation or Earth Moving Activities*. In addition to the zoning permit application requirements specified above and elsewhere herein this Article, applications involving any excavation or earthmoving shall also adhere to the applicable requirements specified in the Township's Subdivision and Land Development Ordinance.

(W) Applications involving Forestry Operations shall also require the submission of information listed in Section 3.04(C)6., of this Ordinance.

(X) *Application for Zoning Permits for Uses in All Commercial and Industrial Zones*. In addition to the preceding requirements for all zoning permits uses proposed within the Commercial and/or Industrial Zones shall provide the following information:

1. A location plan showing the tract to be developed, Zone boundaries, adjoining tracts, significant natural features, proposed topographic features, and Streets for a distance of two hundred (200) feet from all tract boundaries;

2. A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water pollution, vibration, fire hazards, safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation;

3. Engineering plans for treatment and disposal of sewage and industrial waste, tailings or unusable by-products;

4. Engineering plans for the handling of traffic, noise, light and glare, air pollution, water pollution, vibration, fire hazards, or safety hazards, smoke, or emission of any potentially harmful or obnoxious matter or radiation;

5. Designation of the manner by which sanitary sewage and storm water shall be disposed and water supply obtained;

6. The proposed number of shifts to be worked and the maximum number of employees on each shift; and

7. Where use by more than one firm is anticipated, a list of firms which are likely to be located in the center, their floor area, and estimated number of employees.

Section 1.11 Certificate of Zoning Compliance

(A) *When Required*. It shall be unlawful to use and/or occupy any Structure, Building, sign, or land or portion thereof for which a Zoning Permit is required until a Certificate of Zoning Compliance has been issued by the Zoning Officer. The Zoning Officer shall not issue such Certificate unless they have inspected said Structure, Building, sign, or land and has determined that all provisions of the Zoning Ordinance and other ordinances of the Township have been satisfied.

(B) *Action Upon Application*. The Zoning Officer shall inspect any Structure, Building, or sign within seven (7) days after notification that the proposed work that was listed under the Zoning Permit has been completed. If the Zoning Officer is satisfied that the work is in conformity and compliance with the work listed in the issued Zoning Permit and all other pertinent laws, the Zoning Officer shall issue a Certificate of Zoning Compliance for the intended use listed in the approved application. If the Zoning Officer finds that the work has not been performed in accordance with the approved application, the Zoning Officer shall refuse to issue the Certificate of Zoning Compliance and within ninety (90) days after the application is filed, said officer shall give in writing the reasons for such refusal and shall inform the Permit holder of his/her right of appeal to the Zoning Hearing Board.

(C) *Availability of Certificate*. The Zoning Officer shall maintain a Certificate of Zoning Compliance (or a true copy thereof) for all uses that shall be kept available for inspection at all times.

(D) *Compliance with Applicable State and Federal Requirements*. No Certificate of Zoning Compliance shall be issued unless evidence has been submitted that the Applicant has complied with all applicable laws, rules, and regulations of the State and Federal governments.

(E) *Temporary Certificate of Zoning Compliance*. Upon request of a holder of a Zoning Permit, the Zoning Officer may issue a Temporary Certificate of Zoning Compliance for a Structure, Building, sign, or land, or portion thereof before the entire work covered by the permit shall have been completed; provided that such portion or portions may be used or occupied safely prior to full completion of the work without endangering life or public welfare.

(F) It is recognized that it may be in accordance with the purpose of this Ordinance to permit temporary activities for a limited period of time, which activities may be prohibited by other provisions of this Ordinance. If such uses are of such a nature and are so located that, at the time of application, they will:

1. In no way exert a detrimental effect upon the uses of land and activities normally permitted in the Zone, and,

2. Contribute materially to the welfare of the Township, particularly in a state of emergency, under conditions peculiar to the time and place involved, the Board of Supervisors may direct the Zoning Officer to issue a Certificate of Zoning Compliance for a period not to exceed six (6) months. Such Certificate of Zoning Compliance may be extended not more than once for an additional period of six (6) months.

Section 1.12 Fees

(A) The Board of Supervisors shall establish by resolution a schedule of fees, charges, and expenses and collection procedures for applications for Zoning Permits, Certificates of Zoning Compliance, Special Exceptions, Conditional uses, Variances, Appeals, Amendments, and other matters pertaining to this Ordinance.

(B) The schedule of fees shall be available for inspection in the office of the Zoning Officer and may be altered or amended by resolution of the Board of Supervisors.

(C) Until all application fees, charges, and expenses have been paid in full, the application or appeal shall not be considered complete. Therefore, no proceedings related to any such application or appeal shall be initiated, no established time elements shall begin to accrue, and no action shall be taken on any such application or appeal.

Section 1.13 Violations and Penalties

(A) Any Person, partnership or corporation who or which has violated the provisions of this Ordinance or of the MPC, as amended, upon being found liable thereof in a civil enforcement proceeding commenced by the Township, shall pay a judgment of not less than one hundred dollars ($100.00) but no more than five hundred dollars ($500.00) plus court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied, or 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 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 (5th) 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 this Zoning Ordinance shall be paid over to Township.

(B) The Court of Common Pleas, upon petition, may grant an order to stay, upon cause shown, tolling the per diem fine, pending a final adjudication of the violation and agreement.

(C) Nothing contained in this Ordinance shall be construed or interpreted to grant any Person or entity other than the Township the right to commence any action for enforcement to this Ordinance.

Section 1.14 Appeals and Applications

(A) An appeal or application for an amendment or variance from the terms of this Ordinance shall be filed with the Zoning Officer and shall contain the following information:

1. The name, address, and contact information of the Applicant.

2. The name, address, and contact information of the Owner of the real estate to be affected by such proposal.

3. A brief description and location of the real estate to be affected by such proposal, including the Property Identification Number

4. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present Use.

5. A statement of the Article of this Ordinance under which the appeal or application is filed and reasons why it should be granted or a statement of the Article of this Ordinance governing the situation in which the alleged erroneous ruling is being appealed and reasons for the appeal.

6. An accurate description of the present improvements and the additions intended to be made under this application, indicating the size and use of such proposed improvements and general construction thereof. In addition, there shall be attached a site plan of the real estate to be affected, as required to accompany applications for a zoning permit as outlined in Section 1.10 of this Ordinance.

Section 1.15 Zoning Hearing Board

(A) *Creation and Appointment*.

1. There shall be a Zoning Hearing Board which shall consist of three (3) members who shall be appointed by resolution by the Board of Supervisors. The membership of the Zoning Hearing Board shall consist of residents of the Township. Their terms of office shall be three (3) years and shall be so fixed that the term of office of one member shall expire each year. The Zoning Hearing Board shall promptly notify the Board of Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall hold no other office in the Township.

2. The Board of Supervisors may appoint by resolution at least one (1) but no more than three (3) residents of the municipality to serve as alternate members of the board. The term of office of an alternate member shall be three (3) years. When seated pursuant to the provisions of Section 1.15(C), an alternate shall be entitled to participate in all proceedings and discussions of the Zoning Hearing Board to the same and full extent as provided by law for board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. Alternates shall hold no other office in the Township, including membership on the Planning Commission and Zoning Officer. Any alternate may

participate in any proceeding or discussion of the Zoning Hearing Board but shall not be entitled to vote as a member of the Zoning Hearing Board nor be compensated pursuant to Section 1.15(D) unless designated as a voting alternate member pursuant to Section 1.15(C) this Ordinance.

(B) *Removal of Members*. Any Zoning Hearing Board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors which appointed the member, taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

(C) *Organization of Zoning Hearing Board*. The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all members of the Zoning Hearing Board, but the Zoning Hearing Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Zoning Hearing Board as provided in Section 1.15(E) of this Ordinance. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Zoning Hearing Board shall designate as many alternate members of the Zoning Hearing Board to sit on the Zoning Hearing Board as may be needed to provide a quorum. Any alternate member of the Zoning Hearing Board shall continue to serve on the Zoning Hearing Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Zoning Hearing Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates. The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure, consistent with Ordinances of the Township and laws of the Commonwealth. The Zoning Hearing Board shall keep full public records of its business, which records shall be the property of the Township and shall submit a report of its activities to the Board of Supervisors upon request.

(D) *Expenditures for Services*. Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors, but in no case shall it exceed the rate of compensation authorized to be paid to members of the Board of Supervisors.

(E) *Hearings*. A hearing conducted by the Zoning Hearing Board shall be held within sixty (60) days from the date of the Applicant's request unless the Applicant has agreed in writing to an extension of time. The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements.

1. *otice*. Public Notice shall be given, and written notice shall be given to the Applicant, the Township Secretary, the Township Planning Commission, and to any Person who has made timely request for the same. Written notices shall be given at such time and in such a manner as shall be prescribed by the Zoning Hearing Board and the requirements of the MPC provided that the notices conform to the following:

    a. Written notices shall state the time, date, and location of the proposed hearing, along with a description of the nature of the of the matter to be considered.

    b. Written notice shall be conspicuously posted on the affected tract of land at least seven (7) calendar days prior to the hearing.

c. At least seven (7) business days prior to the hearing, the Applicant shall provide written notice by U.S. Mail to all Landowners within two hundred (200) radial feet of the affected tract of land. Landowners are determined by the then-current Cumberland County tax records. Provided, however, that failure to give the notice as required by this Article shall not invalidate any action taken by the Zoning Hearing Board.

2. *Conduct of Hearing*. The hearings shall be conducted by the Zoning Hearing Board, or the Zoning Hearing Board may appoint any member, or the Board's Solicitor, as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Zoning Hearing Board, but the parties may waive a written decision or findings by the Zoning Hearing Board and accept the decision or findings as final.

a. The parties to the hearing shall be the Township and any Person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any other Person including civic, or community organizations permitted to appear by the Zoning Hearing Board. The Zoning Hearing Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing.

b. The chairperson of the Zoning Hearing Board or the hearing officer presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

c. 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 adverse witnesses on all relevant issues.

d. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

e. The Zoning Hearing Board or the hearing officer shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the Applicant and the Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is ordered by the Zoning Hearing Board or hearing officer. It shall be paid by the Person appealing from the decision of the Zoning Hearing Board if such appeal is made, and in either event, the cost of additional copies shall be paid by the Person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.

f. The Zoning Hearing Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

3. *Decision*.

a. The Zoning Hearing Board or the hearing officer shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) calendar days after the last hearing before the Zoning Hearing Board or hearing officer.

b. Each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons, therefore. Conclusions based on any provisions of this act or of any ordinance, rule, or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

c. If the hearing is conducted by a hearing officer, and there has been no stipulation that the officer's decision or findings are final, the Zoning Hearing Board shall make its report and recommendations available to the parties within forty-five (45) calendar days, and the parties shall be entitled to make written findings to the Zoning Hearing Board prior to final decision or entry of findings, and the Zoning Hearing Board's decision shall be entered no later than thirty (30) calendar days after the decision of the hearing officer.

d. Where the Zoning Hearing Board has power to render a report and the Zoning Hearing Board or the hearing officer as the case may be, fails to render the same within the period required by this subsection, or fails to hold the required hearing within sixty (60) calendar days from the date of the Applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the Applicant unless the Applicant has agreed in writing to an extension of time.

e. When a decision has been rendered in favor of the Applicant because of the failure of the Zoning Hearing Board to meet or render a decision, the Zoning Hearing Board shall give Public Notice of the said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in Section1.15(E)1. If the Zoning Hearing Board fails to provide such notice, the Applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to urge that such a decision is erroneous.

f. A copy of the final decision, or where no decision is called for, of the findings shall be delivered to the Applicant personally or mailed to them not later than the next business day following its date. To all other persons who have filed their name and address with the Zoning Hearing Board not later than the last day of the hearing, the Zoning Hearing Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

(F) *Jurisdiction*. The Zoning Hearing Board shall have exclusive Jurisdiction to hear and render final adjudications in the following matters:

1. Substantive challenges to the validity of any land Use ordinance, except those brought before the Board of Supervisors pursuant to Sections 609.1 and 916.1 of the MPC.

2. Appeals from the Determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease-and-desist order or the registration or refusal to register any Nonconforming Use, Structure or Lot.

3. Appeals from a Determination by the Zoning Officer or the Township Engineer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land Use ordinance.

4. Applications for variances from the terms of this Ordinance pursuant to Article 910.2 of the MPC.

5. Applications for Special Exceptions under this Ordinance pursuant to Article 912.1 of the MPC.

6. Appeals from the Zoning Officer's Determination under Article 916.2 of the MPC.

7. Appeals from the Determination of the Zoning Officer or the Township Engineer in the administration of any land Use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving applications under Article V or VII of the MPC.

(G) *Board of Supervisors*. The Board of Supervisors shall have exclusive jurisdiction to and render final adjudications in the following matters:

1. All applications for approvals of planned residential development under Article VII of the MPC pursuant to the provisions of Section 702 of the MPC.

2. All applications pursuant to Section 508 of the MPC, for approval of Subdivisions or Land Developments under Article V of the MPC.

3. Applications for Conditional Use under the express provisions as specified under Section 1.17 of this Ordinance.

4. Applications for a curative amendment to this Ordinance or pursuant to Sections 609.1 and 916.1(a) of the MPC.

5. All petitions for amendments to land use ordinances, pursuant to the procedures set forth in Article 609 of the MPC.

6. Appeals from the Determination of the Zoning Officer or the Township Engineer in the administration of any land Use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to applications for Land Development under Articles V and VII of the MPC. Where such Determination relates only to development not involving an Article V or VII application, the appeal from such Determination of the Zoning Officer or the Township Engineer shall be to the Zoning Hearing Board pursuant to this Article. Where the applicable land Use ordinance vests jurisdiction for final administration of Subdivision and Land Development applications in the Planning Commission, all appeals from determinations under this subsection shall be to the Planning Commission, and all appeals from the decision of the Planning Commission shall be to court.

(H) *Zoning Hearing Board Functions*.

1. *Variances*. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the Applicant. The Zoning Hearing Board may grant a variance provided the following findings are made where relevant in each case.

a. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of Lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Ordinance in the zoning district in which the property is located.

b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is, therefore, necessary to enable the reasonable use of the property.

c. That such necessary hardship has not been created by the appellant.

d. That the variance, if authorized, shall not alter the essential character of the zoning district in which the property is located, nor substantially or permanently impair the appropriate Use or development of an adjacent property, nor be detrimental to the public welfare.

e. That the variance, if authorized, shall represent the minimum variance that shall afford relief and shall represent the least modification possible of the regulation in issue.

f. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this act and this Ordinance.

2. *Special Exceptions*. See Section 1.16 of this Ordinance.

(I) *Parties Appellant Before Zoning Hearing Board*. Appeals specified under Section 1.14 of this Ordinance may be filed with the Zoning Hearing Board in writing by the landowner affected or any officer or agency of the Township, or any Person aggrieved. Requests for a variance under Section1.15(H).1 and for Special Exceptions under Section 1.16 of this Ordinance may be filed with the Zoning Hearing Board by any landowner or any tenant with the permission of such landowner.

(J) *Time Limitations*. The time limitations for raising certain issues and filing certain proceedings with the Zoning Hearing Board shall be the following:

1. No Person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after any application for development, preliminary or final, has been approved by an appropriate Township officer, agency, or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such Person alleges and proves that they had no notice, knowledge, or reason to believe that such approval had been given. If such Person has succeeded to his interest after such approval they shall be bound by the knowledge of his predecessor in interest.

2. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan, or from an adverse decision by a Zoning Officer on a challenge to the validity of this Ordinance or Zoning Map shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

(K) *Stay of Proceedings*. Upon filing of any proceeding with the Zoning Hearing Board and during its pendency before the Zoning Hearing Board all Land Development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the Applicant, the Applicant may petition the court having jurisdiction of zoning appeals to order such persons to post a bond as a condition to continuing the proceedings before the Zoning Hearing Board. The question of whether such petition should be granted and the amount of the bond shall be within the sound discretion of the court.

Section 1.16 Special Exception Use Procedures

(A) *General*.

1. It is the intent of this Section to provide special controls and regulations for particular uses which may, under certain conditions, be conducted within the various zoning districts established in Article 2 of this Ordinance.

2. Where the Board of Supervisors has stated, under Article 3 of this Ordinance, Special Exceptions to be granted or denied by the Zoning Hearing Board pursuant to the standards and criteria specified below, the Zoning Hearing Board shall hear and decide requests for such Special Exceptions in accordance with such standards and criteria. In granting a Special Exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance.

(B) *Application*. In addition to the information required on a zoning permit application as specified under Section 1.10 of this Ordinance, each application for a Special Exception Use shall also include the following information:

1. Ground floor plans and elevations of proposed Buildings and Structures;

2. Names and addresses of adjoining property owners, including properties directly across a public Right-of-Way;

3. A scaled drawing (site plan) of the subject property including finished topography with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance; and

4. A written description of the proposed Special Exception that addresses each of the standards and criteria listed under subsection (D) below and any supplemental use regulations stipulated in Article 3 of this Ordinance for the proposed Special Exception.

(C) *Standards and Criteria*. In any instance where the Zoning Hearing Board is required to consider a Special Exception to this Ordinance in accordance with the provisions of this Ordinance, the Zoning Hearing Board shall, among other things, consider the following standards and conditions:

1. That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is

proposed to be 'situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.

2. That, in addition to the above, in the case of any use located in, or directly adjacent to, a residentially zoned district:

   a. The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access Streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, said residentially zoned district or conflict with the normal traffic of the neighborhood; and

   b. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings/

3. That the suitability of the property for the Use desired and assure itself that the proposed change is consistent with the spirit, purpose, and intent of this Ordinance;

4. That the proposed use shall not substantially injure or detract from the use of neighboring property or the character of the neighborhood and that the use of the property adjacent to the area included in the proposed change or plan is adequately safeguarded;

5. That the proposed use shall serve the best interests of the Township, the convenience of the community (where applicable), and the public welfare;

6. That the effect of the proposed use upon the logical, efficient, and economical extension of public services and facilities such as public water, sewers, police, and fire protection, and public schools;

7. That the suitability of the proposed location of an industrial or commercial use with respect to probable effects upon roadway traffic and assure adequate access arrangements to protect all Streets from undue congestion and hazard;

9. Impose such conditions, in addition to those required, as are necessary to assure that the intent of this Ordinance is complied with, which conditions may include, but are not limited to, harmonious design of Buildings, planting and its maintenance as a sight or sound screen, the minimizing of noxious, offensive or hazardous elements, adequate standards of parking and sanitation; and

10. Imposed such conditions that consider the health, safety, and welfare of the general public including but not limited to parking, lighting, traffic, sewer and water needs, noise and others as may be deemed appropriate by the Zoning Hearing Board.

(D) *Zoning Hearing Board Action*. The Zoning Hearing Board shall conduct a public hearing on each application for a Special Exception use in accordance with Section 1.15(E) of this Ordinance.

(E) *Conditions and Safeguards of Special Exception Permits*. The Zoning Hearing Board may require the zoning permit issued for a Special Exception use be periodically renewed. Such renewal shall be granted upon a determination by the Zoning Hearing Board to the effect that such conditions as may have been prescribed by the Zoning Hearing Board in conjunction with the issuance of the

original permit have not been or are being no longer complied with. In such cases, a period of sixty (60) days shall be granted the Applicant for full compliance prior to the revocation of said permit.

(F) *Effect of Special Exception Approval*. Any use for which a permit for a Special Exception use may be granted shall be deemed to be a conforming use in the zoning district in which such use is located provided that such permit shall be deemed to affect only the Lot or portion thereof for which such permit shall have been granted.

Section 1.17 Conditional Use Procedures

(A) *General*.

1. It is the intent of this Section to provide special controls and regulations for particular uses as specified in Article 3 of this Ordinance that may, under certain conditions, be conducted within the various zoning districts established in Article 2 of this Ordinance.

2. Where the Board of Supervisors has stated, under Article 3 of this Ordinance, Conditional Uses to be granted or denied by the Board of Supervisors pursuant to the standards and criteria specified below, the Board of Supervisors shall hear and decide requests for such Conditional Uses in accordance with such standards and criteria. In granting a Conditional Uses, the Board of Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance.

(B) *Application*. In addition to the information required on a zoning permit application as specified under Section 1.10 of this Ordinance, each application for a Conditional Use shall also include the following information:

1. Ground floor plans and elevations of proposed Buildings and Structures;

2. Names and addresses of adjoining property owners, including properties directly across a public Right-of-Way;

3. A scaled drawing (site plan) of the subject property including finished topography with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance; and

4. A written description of the proposed Conditional Use that addresses each of the standards and criteria listed under subsection (C) below and any supplemental use regulations stipulated in Article 4 of this Ordinance for the proposed Conditional Use.

5. The Conditional Use Application must be submitted no later than four (4) weeks prior to the regularly scheduled monthly Township Planning Commission meeting. The Township Solicitor shall have a maximum of two (2) weeks to conduct an administrative review of the application. Once the application is deemed complete, the required sixty (60) day hearing process shall then commence.

(C) *Standards and Criteria*. Each Applicant shall demonstrate compliance with the following standards and criteria:

1. The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance and such use is specifically authorized as a use by Conditional Use within the Zone wherein the Applicant seeks approval;

2. The proposed use will not substantially change the character of the subject property's neighborhood or adversely affect the character of the general neighborhood, the conservation of property values, the health and safety of residents or workers on adjacent properties and in the neighborhood, nor the reasonable use of neighboring properties. The use of adjacent properties shall be adequately safeguarded;

3. Adequate public facilities are available to serve the proposed use and the proposed use shall not have an adverse effect upon the logical and economic extension of such public services and facilities, (e.g., schools, parks and recreation, fire, police and ambulance protection, sewer, water and other utilities, vehicular access, etc.);

4. Such use shall be sized, located, and designed so that no undue traffic congestion or safety hazards will be created. The surrounding streets shall be sufficient to accommodate any expected increase in traffic generated by the proposed use. There shall be control of development of highway frontage to limit the number of points for vehicular access and consideration of their location with regard to vehicular and pedestrian safety. Where appropriate and practicable, joint use of shared access drives along major highways shall be encouraged;

5. The Applicant shall establish by credible evidence that the proposed Conditional Use shall be in and of itself properly designed with regard to internal circulation, off-street parking, off-street loading, landscaping, screening, buffering, and all other elements of proper design as specified in this Ordinance and any other governing law or regulation;

6. For development within the Floodplain Overlay District (FPO), that the application complies with those requirements listed in Section 2.12 of this Ordinance;

7. The proposed use shall comply with those criteria specifically listed in Article 4 of this Ordinance. In addition, the proposed use must comply with all other applicable regulations contained in this Ordinance; and,

8. The proposed use will not substantially impair the integrity of the Township Comprehensive Plan.

(D) *Conditions*. The Board of Supervisors in approving Conditional Use applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same district. These 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 Article.

(E) *Site Plan Approval*. Any site plan presented in support of the Conditional Use pursuant to subparagraph (B) shall become an official part of the record for said Conditional Use. Approval of any Conditional Use shall also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the Applicant shall revise the site plan prior to the issuance of a Zoning Permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan, shall require the obtainment of another Conditional Use approval.

(F) *Hearing Procedures*.

1. Before voting on the approval of a Conditional Use, the Board of Supervisors shall, within sixty (60) days from receipt of the Applicant's application, hold a public hearing thereon, pursuant to Public Notice. The Board of Supervisors shall submit the Conditional Use

application to the Township Planning Commission at least thirty (30) days prior to the hearing on such application to provide the Township Planning Commission an opportunity to submit recommendations. If, after any public hearing held upon said application, the proposed application is revised, the Board of Supervisors shall hold another public hearing, pursuant to Public Notice, before proceeding to vote on the application.

2. Public Notice, as defined herein, and written notice shall be given to the Applicant, the Zoning Officer, such other persons as the Board of Supervisors shall designate by ordinance, and to any Person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by Ordinance or, in the absence of Ordinance provisions, by rules of the Board of Supervisors. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.

3. The Board of Supervisors may prescribe reasonable fees with respect to hearings. Fees for said hearings may include compensation for the secretary, stenographer, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses, expenses for engineering, architectural, or other technical consultants, or expert witness costs.

4. The parties to the hearing shall be the Township, any Person affected by the application who has made timely appearance of record before the Board of Supervisors, and any other Person, including civic or community organizations permitted to appear by the Board of Supervisors. The Board of Supervisors shall have power to require that all persons who wish to be considered parties enter appearance in writing on forms provided by the Board of Supervisors for that purpose.

5. The Chairperson or Acting Chairperson of the Board of Supervisors shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and paper, including witnesses and documents requested by the parties.

6. 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 adverse witnesses on all relevant issues.

7. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

8. The Board of Supervisors may keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the Applicant and the Board of Supervisors. The cost of the original transcript shall be paid by the Board of Supervisors if the transcript is ordered by the Board of Supervisors; or shall be paid by the Person appealing the decision of the Board of Supervisors if such appeal is made, and in either event, the cost of additional copies shall be paid by the Person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof. A stenograpaher may be waived by the Applicant if such request is made in writing to the Board of Supervisors.

9. The Board of Supervisors shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or

its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

10. The hearing shall be conducted by the Board of Supervisors or the Board of Supervisors may appoint any member or an independent attorney as a hearing officer. The decision, or, where there is no decision, the findings shall be made by the Board of Supervisors. However, the appellant or the Applicant, as the case may be, in addition to the municipality, may, waive a written decision or findings by the Board of Supervisors and accept the decision or findings as final.

11. The Board of Supervisors shall render a written decision or, when no decision is called for, make written finds 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, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

12. Where the Board of Supervisors fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in this subsection, the decision shall be deemed to have been rendered in favor of the Applicant unless the Applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the Applicant because of the failure of the Board of Supervisors to meet or render a decision as hereinabove provided, the Board of Supervisors shall give Public Notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by the Public Notice requirements of this Ordinance. If the Board of Supervisors shall fail to provide such notice, the Applicant may do so.

(G) *Time Limitation*.

1. If a Conditional Use is granted, the necessary permit shall be secured and the authorized action begun within two (2) years after the date when the Conditional Use is finally granted, and the Building or alteration, as the case may be, shall be completed within five (5) years of said date. For good cause, the Board of Supervisors may at any time, upon application in writing, extend either of these deadlines.

2. Should the Applicant fail to obtain the necessary permits within said two (2) year period or having obtained the permit should the fail to commence work thereunder within such two (2) year period, it shall be conclusively presumed that the appellant or Applicant has waived, withdrawn, or abandoned his application, and all approvals and permits granted to him shall be deemed automatically rescinded by the Board of Supervisors.

3. Should the Applicant commence construction or alternation within said two (2) year period, but should the Applicant fail to complete such construction or alteration within said five (5) 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 such five (5) year period, and if the Board of Supervisors further finds that conditions have altered or 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 before the Board, the granting of a timetable associated with the request which would supersede the deadlines imposed in paragraphs (G).1.-3. In so doing, the Applicant

shall demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a timetable under this section, the Board shall establish and bind a definite time frame for (1) issuance of a Zoning Permit, and (2) completion of construction of the project.

Section 1.18 Enforcement Notification

(A) Whenever the Zoning Officer or other authorized Township representative determines that there are reasonable grounds to believe that there has been a violation of any provision of this Ordinance, or of any regulation adopted pursuant thereto, the Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section.

(B) The enforcement notice shall be sent to the Owner of record of the parcel on which the violation has occurred, to any Person who has filed a written request to receive enforcement notices regarding that parcel, and to any other Person requested in writing by the Owner of record.

(C) An enforcement notice shall state at least the following:

1. The name of the Owner of record and any other Person against whom the Township intends to take action.

2. The location of the property in violation.

3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance.

4. The date before which the steps for compliance shall be commenced, not to exceed thirty (30) days from receipt of notice, and the date before which the steps shall be completed.

5. An outline of remedial action which, if taken, shall affect compliance with the provisions of this Ordinance, or any part thereof, and with any regulations adopted pursuant thereto.

6. A statement indicating that the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time, in accordance with procedures set forth elsewhere in this Ordinance.

7. A statement indicating that failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

(D) In any appeal of an enforcement notice to the Zoning Hearing Board, the Township shall have the responsibility of presenting its evidence first.

(E) Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.

(F) *Causes of Action*. In case any Building, Structure, landscaping, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of any ordinance enacted by the Township or prior enabling laws, the Board of Supervisors or, with the approval of the Board of Supervisors, an officer of the Township, or any aggrieved Owner or tenant of real property who shows that his property or Person shall be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such Building, Structure, landscaping or land, or prevent, in or

about such premises, any act, conduct, business or Use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Township at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Board of Supervisors. No such action may be maintained until such notice has been given.

(G) *Supplementary Provisions*. No Zoning Permit, Certificate of Use, or any other permit referenced in this Ordinance shall be issued with respect to a property unless the Owner(s) of that property is/are in compliance with all other ordinances, laws, and regulations of federal and state government, and the Township. Additionally, no such permit shall be issued where a charge for drinking water, wastewater, and stormwater Use, real estate taxes, or other municipal charges associated with the Use or ownership of the property have not been paid and are past due.

Section 1.19 Amendments

(A) *General*.

1. *Board of Supervisors Action*.

   a. The Board of Supervisors may, from time to time, amend, supplement, or repeal any of the regulations and provisions of this Ordinance.

   b. Before voting on the enactment of an amendment, the Board of Supervisors shall hold a Public Hearing thereon, pursuant to Public Notice. In addition, if the proposed amendment involves a Zoning Map change, notice of said Public Hearing shall be conspicuously posted by the Township at points deemed sufficient by the Township along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.

   c. In the case of an amendment other than that prepared by the Planning Commission, the Board of Supervisors shall submit each such amendment to the Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.

2. *Report of the Planning Commission*. In making such report on a proposed amendment, the Planning Commission shall make inquiry and recommendation concerning the items specified below:

   a. Concerning a proposed amendment to or change in the text of this Ordinance:

      (1) Whether such change is consistent with the aims and principles embodied in this Ordinance as to the particular zoning district(s) concerned.

      (2) Which areas, land uses, Structures and establishments in the Township shall be directly affected by such change, and in what way they shall be affected.

      (3) The indirect implications of such change in its effect on other regulations.

      (4) Whether such proposed amendment is consistent with the aims of the Township Comprehensive Plan.

   b. Concerning a proposed amendment involving a change in the Zoning Map:

(1) Whether the uses permitted by the proposed change would be appropriate in the area concerned.

(2) Whether adequate public school facilities and other public services exist or can be created to serve the needs of any additional residences likely to be constructed because of such change.

(3) Whether the proposed change is in accord with any existing or proposed plans in the vicinity.

(4) The effect of the proposed amendment upon the growth of the Township is envisaged by the Township's Comprehensive Plan.

(5) Whether the proposed amendment is likely to result in an increase or decrease in the total zoned residential capacity of the Township and the probable effect thereof.

3. *Referral to County Planning Commission*. The Board of Supervisors shall at least thirty (30) days prior to the Public Hearing, refer the proposed amendment to the Cumberland County Planning Commission for recommendations.

4. *Board of Supervisors Public Hearing*. By motion adopted at a public meeting of the Board of Supervisors, the Board of Supervisors shall fix the time and place of a Public Hearing on the proposed amendment pursuant to Public Notice.

5. If, after any Public Hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Board of Supervisor's shall hold another Public Hearing, pursuant to Public Notice, before proceeding to vote on the amendment.

6. Within thirty (30) days after enactment, a copy of the amendment to this Ordinance shall be forwarded to the Cumberland County Planning Commission.

(B) *Procedure for Landowner Curative Amendments*.

1. A landowner who desires to challenge on substantive grounds the validity of this Ordinance or the Zoning Map or any provision thereof, which prohibits or restricts the Use or development of land in which the landowner's interest may submit a curative amendment to the Board of Supervisors with a written request that his challenge and proposed amendment be heard and decided as provided in Article 916.1 of the MPC. The curative amendment and challenge shall be referred to the Planning Commission, and the Cumberland County Planning Commission provided in MPC Section 609 and notice of the hearing thereon shall be given as provided in Articles 610 and 916.1 of the MPC.

2. The hearing shall be conducted in accordance with Article 908 of the MPC and all references therein to the Zoning Hearing Board shall, for purposes of this Article, be references to the Board of Supervisors. If the Township does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity of this Ordinance and Zoning Map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.

3. The Board of Supervisors, if it determines that a validity challenge has merit, may accept a landowner's curative amendment, with or without revision, or may adopt an alternative

amendment that shall cure the challenged defects. The Board of Supervisors shall consider the curative amendments, plans, and explanatory material submitted by the landowner and shall consider:

a. The impact of the proposal upon Streets, sewer facilities, water supplies, schools, and other public service facilities.

b. If the proposal is for residential Use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance or Zoning Map.

c. The suitability of the site for the intensity of Use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources, and other natural features.

d. The impact of the proposed Use on the site's soils, slopes. woodlands, Wetlands, floodplains, natural resources, and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development, and any adverse environmental impacts.

e. The impact of the proposal on the preservation of agriculture and other land uses, which are essential to public health and welfare.

(C) *Procedure for Municipal Curative Amendments*.

1. If the Township determines that this Ordinance, or any portion hereof, is substantially invalid, it shall take the following actions:

a. The Township shall declare by formal action, this Ordinance or portions hereof substantially invalid, and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days of such declaration and proposal, the Board of Supervisors shall:

(1) By resolution, make specific findings setting forth the declared invalidity of this Ordinance which may include:

(a) References to specific uses which are either not permitted or not permitted in sufficient quantity;

(b) Reference to a class of Use or uses which requires revision; or,

(c) Reference to this Ordinance which requires revisions.

(2) Begin to prepare and consider a curative amendment to this Ordinance to correct the declared invalidity.

2. Within one hundred eighty (180) days from the date of the declaration and proposal, the Township shall enact a curative amendment to validate or reaffirm the validity of this Ordinance pursuant to the provisions of Article 609 of the MPC, in order to cure the declared invalidity of this Ordinance.

3. Upon the initiation of the procedures, as set forth in Section 1.19(C)1, the Board of Supervisors shall not be required to entertain or consider any landowner's curative

amendment filed under Article 609.1 of the MPC, nor shall the Zoning Hearing Board be required to give a report requested under Article 909.1 or 916.1 of the MPC subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by Section 1.19(C)1a(1). Upon completion of the procedures as set forth in Section 1.19(C)1 and Section 1.19(C)2, no rights to a cure pursuant to the provisions of Articles 609.1 and 916.1 of the MPC shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which there has been a curative amendment pursuant to this Article.

4. The Township, having utilized the procedures set forth in this Ordinance, may not again utilize said procedure for a period of thirty-six (36) months following the date of enactment of a curative amendment or reaffirmation of the validity of this Ordinance. Provided, however, if after the date of declaration and proposal there is a substantially new duty imposed upon the Township by virtue of a change in statute or a Pennsylvania Appellate Court decision to propose a curative amendment to this Ordinance to fulfill said duty or obligation.

(D) *Applicability of Ordinance Amendments*. When an application for either a Special Exception or a Conditional Use has been respectively filed with the Zoning Hearing Board or Board of Supervisors, and the subject matter of such application would ultimately constitute either a Subdivision or Land Development as defined in Article 6 of this Ordinance, no change or amendment of this Ordinance shall affect the decision on such application adversely to the Applicant and the Applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. Provided, further, should such an application be approved by either the Zoning Hearing Board or Board of Supervisors, as relevant, Applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six (6) months or longer as may be approved by either the Zoning Hearing Board or the Board of Supervisors following the date of such approval in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed before either the Zoning Hearing Board or Board of Supervisors, as relevant. If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of MPC Section 508(1) through (4), and specifically to the time limitations of MPC Section 508(4) which shall commence as of the date of filing such land development or subdivision plan.

(E) *Pending Ordinance Doctrine*. Notwithstanding Subsection (D) above, the Township reserves the right to refuse any application or permit if there is a pending an amendment to this Ordinance that would prohibit the use of the land for which the permit is sought.

ARTICLE 2 ZONING DISTRICTS

Section 2.01 Establishment of Zoning Districts

The following zoning districts are hereby established in the Township.

BASE ZONING DISTRICTS	SPECIAL OVERLAY DISTRICTS
Agriculture District (A)	
Low Density Residential District (R1)	
Medium Density Residential District (R2)	
High Density Residential District (R3)	Floodplain Overlay District (FO)
Mixed-Use District (MU)	Riparian Buffer Overlay District (RBO)
Commercial (C)	
Industrial (I)	
Quarry (Q)	

Section 2.02 Zoning Map

The base zoning districts established by Subsection 2.01 are delineated on the Township's official Zoning Map, which is adopted, and incorporated herein in its entirety, as part of this Ordinance.

(A) Promptly following enactment of this Ordinance, the Zoning Officer shall place the following legend on the official Zoning Map adopted as part of this Ordinance, the Township Board of Supervisors Chairperson shall execute the same on behalf of the Board of Supervisors and the Township Secretary shall attest to the same: "On <DATE>, by official action of Township Board of Supervisors, the map bearing this legend was adopted as the official Zoning Map of the Township by enactment of the Zoning Ordinance of West Pennsboro Township, Cumberland County, Pennsylvania."

(B) No changes of any nature shall be made in the official Zoning Map except in conformity with the procedures set forth in Section 1.19 Amendments of this Ordinance. Any unauthorized change of whatever kind by any Person or Persons shall be considered a violation of this Ordinance.

(C) A certified Zoning Map shall be filed with the Township Secretary, Township Planning Commission, and the Cumberland County Planning Commission.

Section 2.03 Rules for Interpretation of Zoning District Boundaries

(A) The zoning district boundary lines shall be as shown on the Zoning Map. Zone boundary lines are intended to coincide with Lot lines; centerlines of Streets, alleys, railroad Rights-of-Way, and streams at time of passage of this Ordinance; the corporate boundary of the Township; or as dimensioned on the Zoning Map unless other considerations take precedence. In the event of dispute about the location of the boundary of any district, the Zoning Officer shall investigate and render a decision on the location of the line. Appeals from this decision shall be made to the Zoning Hearing Board.

(B) Where uncertainty exists as to the boundaries of zoning districts as shown on the official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of Streets, highways, and Alleys shall be construed to follow such centerlines.

2. Boundaries indicated as approximately following the center of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

3. Boundaries indicated as approximately following property lines or platted Lot lines, shall be construed as following such lines.

4. Boundaries indicated as approximately following Township boundaries shall be construed as following Township boundaries.

5. Boundaries that are in un-subdivided property or where a zoning district boundary divides a Lot shall be determined using the map scale as shown thereon.

Section 2.04 Agricultural District (A)

(A) *Purpose.* The Agricultural District (A) blends productive farmlands with rural residences in outlying areas of the Township. Within this district, a wide variety of agricultural activities are permitted, some of which require special exception approval, due to their potential for impact to adjoining rural residences. Residential development is permitted at low densities due to a lack of public utilities. The provisions of this district have been specifically formulated to satisfy Section 106.04 of the MPC, which requires local zoning ordinances to preserve prime agriculture and farmland considering topography, soil type, and classification, and present use.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses of this Ordinance.

2. All uses permitted within this District shall also comply with Article 4 Supplemental Regulations of this Ordinance.

(C) *Bulk and Area Design Standards*.

1. Table 2.04 specifies the district's bulk and area design standards that are also subject to the application of the Conservation Design standards specified in Subsection (D) below.

2. In addition to the bulk and area design standards specified in Table 2.04, the following standards shall also apply:

   a. *Maximum Permitted Height*.

      (1) *Principal Buildings and Structures*. One hundred fifty (150) feet for uninhabitable Agricultural Buildings and Structures, and thirty-five (35) feet for other Buildings and Structures. Further provided that every Building and/or Structure that exceeds thirty-five (35) feet in height is set back from each property line a distance equal to its height, but not less than the setbacks specified in Table 2.04.

      (2) *Accessory Buildings and Structures*. Twenty-five (25) feet; provided however, that every Accessory Building or Structure higher than fifteen (15) feet shall be setback a minimum horizontal distance equal to its height from the closest side and rear Lot line.

(D) *Conservation Design*. To preserve the Township's sensitive natural features and rural character, and to provide for efficient and compact residential development patterns, the Township requires that the Sliding Scale standards specified under Section 4.05(B) of this Ordinance be used to determine the permissible number of Lots that may be subdivided, or the number of new principal dwelling units that may be established, respectively, within the Agricultural District. Alternatively, the Cluster Development standards specified under Section 4.05(C) may also be used in lieu of the Limitations on Subdivision and/or Land Development standards provided that the residential subdivision has both a Adjusted Tract Area of four (4) acres or more and has an approved means of water supply and sewage disposal available to serve each proposed dwelling unit.

Table 2.04, Agricultural District (A) Bulk and Area Design Standards

PERMITTED USES PER TABLE 3.01	BULK AND AREA REGULATIONS					
	Min. Lot Area	Min. Lot Width	Max. Lot Coverage	Minimum Yard Setbacks		
				Front	Side	Rear
Agriculture	No Minimum	200 ft.	20%	50 ft.	50 ft.	50 ft.
Single-Family Detached Dwellings w/On Lot Water AND On-Lot Sewer	60,000 sq. ft.	200 ft.	20%	50 ft.	30 ft.	35 ft.
Single-Family Detached Dwellings w/Public Water OR Public Sewer	30,000 sq. ft.	150 ft.	30%	50 ft.	20 ft.	35 ft.
Single-Family Detached Dwellings w/Public Water AND Public Sewer	10,000 sq. ft.	90 ft.	40%	40 ft.	10 ft.	35 ft.
Accessory Uses	N/A			Same as Principal Use	10 ft.	10 ft.
Municipal Services and Utilities, Public Recreation Facilities, Nature Preserves (including Open Spaces)	2,500 sq. ft.	50 ft.	40%	20 ft.	15 ft.	20 ft.
All Other Permitted Uses, including Forestry	1 acre	150 ft.	20%	50 ft.	30 ft.	50 ft.

Section 2.05 Low Density Residential District (R1)

(A) *Purpose.* The Low Density Residential District (R1) accommodates suburban detached residential growth within the Township. Public water and sewer services may or may not be available to support this district's development. As a result, permitted densities have been adjusted according to the availability of these public utilities.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses of this Ordinance.

2. All uses permitted within this District shall also comply with Article 4 Supplemental Regulations of this Ordinance.

(C) *Bulk and Area Design Standards*.

1. Table 2.05 specifies the district's bulk and area design standards.

2. In addition to the bulk and area design standards specified in Table 2.06, the following standards shall also apply:

a. *Maximum Permitted Height*.

(1) *Principal Buildings and Structures*. One hundred fifty (150) feet for uninhabitable Agricultural Buildings and Structures, and thirty-five (35) feet for other Buildings and Structures. Further provided that every Building and/or Structure that exceeds thirty-five (35) feet in height is set back from each property line a distance equal to its height, but not less than the minimum setbacks specified in Table 2.05.

(2) *Accessory Buildings and Structures*. Twenty-five (25) feet; provided however, that every Accessory Building or Structure higher than fifteen (15) feet shall be setback a minimum horizontal distance equal to its height from the closest side and rear Lot line.

(D) *Conservation Design*. To preserve the Township's sensitive natural features and rural character, and to provide for efficient and compact residential development patterns, the Township requires that the Cluster Development standards specified under Section 4.05(B) be used for residential subdivisions having a Adjusted Tract Area of four (4) acres or more and having an approved means of water supply and sewage disposal available to serve each proposed dwelling unit.

Table 2.05, Low Density District (R1) Bulk and Area Design Standards

PERMITTED USES PER TABLE 3.01	BULK AND AREA REGULATIONS					
	Min. Lot Area	Min. Lot Width	Max. Lot Coverage	Minimum Yard Setback		
				Front	Side	Rear
Agriculture	No Minimum	200 ft.	20%	50 ft.	50 ft.	50 ft.
Single-Family Detached Dwellings w/On Lot Water AND On-Lot Sewer	60,000 sq. ft.	200 ft.	20%	50 ft.	30 ft.	35 ft.
Single-Family Detached Dwellings w/Public Water OR Public Sewer	30,000 sq. ft.	150 ft.	30%	50 ft.	20 ft.	35 ft.
Single-Family Detached Dwellings w/Public Water AND Public Sewer	10,000 sq. ft.	90 ft.	40%	40 ft.	10 ft.	35 ft.
Accessory Uses	N/A			Same as Principal Use	10 ft	10 ft.
Municipal Services and Utilities, Public Recreation Facilities, Nature Preserves (including Open Spaces)	2,500 sq. ft.	50 ft.	40%	20 ft.	15 ft.	20 ft.
All Other Permitted Uses, including Forestry	1 acre	150 ft.	20%	50 ft.	30 ft.	50 ft.

Section 2.06 Medium Density Residential District (R2)

(A) *Purpose.* The Medium Density Residential District (R2) seeks to accommodate the higher density housing needs of the Township. A wide range of housing types are encouraged, with densities exceeding those permitted elsewhere in the Township. These Zones are located around existing, multi-family developments and major transportation routes. Both public sewer and water facilities can be made available to these areas and are a prerequisite to higher-density development. Clustering is a development option that blends higher density uses amid protected natural features and/or usable open space.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses of this Ordinance.

2. All uses permitted within this District shall also comply with Article 4 Supplemental Regulations of this Ordinance.

(C) *Bulk and Area Design Standards*.

1. Table 2.06 specifies the district's bulk and area design standards.

2. In addition to the bulk and area design standards specified in Table 2.07, the following standards shall also apply:

   a. *Maximum Permitted Height*.

      (1) *Principal Buildings and Structures*. One hundred fifty (150) feet for uninhabitable Agricultural Buildings and Structures, and thirty-five (35) feet for other Buildings and Structures. Further provided that every Building and/or Structure that exceeds thirty-five (35) feet in height is set back from each property line a distance equal to its height, but not less than the setbacks specified in Table 2.07.

      (2) *Accessory Buildings and Structures*. Twenty-five (25) feet; provided however, that every Accessory Building or Structure higher than fifteen (15) feet shall be setback a minimum horizontal distance equal to its height from the closest side and rear Lot line.

Table 2.06, Medium Density District (R2) Bulk and Area Design Standards

PERMITTED USES PER TABLE 3.01	BULK AND AREA REGULATIONS					
	Min. Lot Area	Min. Lot Width	Max. Lot Coverage	Minimum Yard Setbacks		
				Front	Side	Rear
Agriculture	No Minimum	200 ft.	20%	50 ft.	50 ft.	50 ft.
Single-Family Detached Dwellings w/On Lot Water AND On-Lot Sewer	60,000 sq. ft.	200 ft.	20%	50 ft.	30 ft.	35 ft.
Single-Family Detached Dwellings w/Public Water OR Public Sewer	30,000 sq. ft.	150 ft.	30%	50 ft.	20 ft.	35 ft.
Single-Family Detached Dwellings w/Public Water AND Public Sewer	10,000 sq. ft.	90 ft.	40%	40 ft.	10 ft.	35 ft.
Single Family Semi-Detached, Duplex, Dwellings w/On Lot Water AND On-Lot Sewer	60,000 sq. ft.	100 ft.	20%	50 ft.	30 ft.	35 ft.
Single Family Semi-Detached, Duplex, Dwellings w/Public Water OR Public Sewer	30,000 sq. ft. (15,000 sq. ft. w/public sewer)	90 ft.	30%	50 ft.	20 ft.	35 ft.
Single Family Semi-Detached, Duplex, Dwellings w/Public Water AND Public Sewer	9,000 sq. ft.	70 ft.	40%	40 ft.	10 ft.	35 ft.
Single Family Semi-Attached, Townhouse, Dwellings w/On Lot Water AND On-Lot Sewer	Not Permitted					
Single Family Semi-Attached, Townhouse, Dwellings w/Public Water OR Public Sewer	Not Permitted					
Single Family Semi-Attached, Townhouse, Dwellings w/Public Water AND Public Sewer	2,000 sq. ft.	20 ft.	40%	30 ft.	15 ft. from the unattached sides of buildings; 50 ft. separation from each townhouse grouping.	30 ft.
Multi-Family Conversion, w/On Lot Water AND On-Lot Sewer	60,000 sq. ft.	200 ft.	20%	50 ft.	30 ft.	35 ft.
Multi-Family Conversion, w/Public Water OR Public Sewer	30,000 sq. ft.	150 ft.	30%	50 ft.	20 ft.	35 ft.
Multi-Family Conversion, w/Public Water AND Public Sewer	10,000 sq. ft.	90 ft.	40%	40 ft.	10 ft.	35 ft.

PERMITTED USES PER TABLE 3.01	BULK AND AREA REGULATIONS					
	Min. Lot Area	Min. Lot Width	Max. Lot Coverage	Minimum Yard Setbacks		
				Front	Side	Rear
Accessory Uses	N/A			Same as Principal Use	5 ft	5 ft.
Municipal Services and Utilities, Public Recreation Facilities, Nature Preserves (including Open Spaces)	2,500 sq. ft.	50 ft.	40%	20 ft.	15 ft.	20 ft.
All Other Permitted Uses, including Forestry	1 acre	150 ft.	20%	50 ft.	30 ft.	50 ft.

Section 2.07 High Density Residential District (R3)

(A) *Purpose*.

The purpose of the High Density Residential District (R3) is to establish standards of performance and promote the desirable benefits that planned manufactured home communities may have upon the Township. It is further the intent of this district to ensure the interdependency and compatibility of such planned manufactured home communities with essential utilities, amenities, and surrounding land uses in the Township.

It shall further be the intent of this District to:

1. Reflect the changes in the technology of home Building and land development so that resulting economies may convey the benefits derived therefrom to those who need homes;

2. Further the general welfare by extending greater opportunities for better and more affordable housing to all present and prospective residents of the Township;

3. Provide for better quality and greater variety in type, design and layout of planned manufactured home communities than has been evident in many planned manufactured home communities in the past by enforcing uniform standards, desirable design criteria, and encouraging innovative site design approaches;

4. Encourage a diversity in manufactured housing types and prices; and

5. Encourage planned manufactured home communities that are beneficial rather than detrimental to property values and the general welfare of the area in which they are proposed.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses.

2. All uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

(C) *Bulk and Area Design Standards*. In addition to the Mobile Home Park regulations specified in the West Pennsboro Township Subdivision and Land Development Ordinance and the bulk and area design standards specified in Table 2.07, the following standards shall also apply:

1. *Maximum Permitted Height*.

   a. *Principal Buildings and Structures*. Thirty-five (35) feet.

   b. *Accessory Buildings and Structures*. Twenty-five (25) feet; provided however, that every Accessory Building or Structure higher than fifteen (15) feet shall be setback a minimum horizontal distance equal to its height from the closest side and rear Lot line.

2. *Minimum Tract Size*. A minimum of twenty (20) contiguous acres served by public water and public sewer shall be required to qualify as a site for a manufactured home community.

3. *Density*. The gross density of a manufactured home community shall be four (4) manufactured home units per acre, provided adequate community or public sewer service and central water service are utilized.

4. *Common Open Space*. See West Pennsboro Township Subdivision and Land Development Ordinance.

5. *Buffer*. A minimum buffer of fifty (50) feet shall be provided from all tract boundaries and any Street Right-of-Way bordering the tract. Manufactured home Lots, structures, or buildings shall not be located within the buffer.

Table 2.07, High Density Residential District (R3) Bulk and Area Design Standards

PERMITTED USES PER TABLE 3.01	BULK AND AREA REGULATIONS					
	Min. Lot Area	Min. Lot Width	Max. Lot Coverage	Minimum Yard Setbacks		
				Front	Side	Rear
Agriculture	No Minimum	200 ft.	20%	50 ft.	50 ft.	50 ft.
Manufactured Home	See West Pennsboro Township Subdivision and Land Development Ordinance, Mobilehome Parks					
Municipal Services and Utilities, Public Recreation Facilities, Nature Preserves (including Open Spaces)	2,500 sq. ft.	50 ft.	40%	20 ft.	15 ft.	20 ft.
Residential Accessory Uses	N/A			Not permitted in Front Yard	5 ft.	5 ft.

Section 2.08 Mixed-Use District (MU)

(A) *Purpose.* The Mixed-Use District (MU) is a small-scale district intended to encourage low-impact, mixed-use development compatible with medium density residential areas. The district permits a mix of residential uses with neighborhood-scaled commercial uses that benefit and support the surrounding residential and agricultural communities of the Township. Buildings in this district may contain a mixture of residential and commercials uses within. Development is intended to be pedestrian-oriented and compatible with the scale and characteristics of Adjacent residentially zoned areas or low-rise commercial areas.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses of this Ordinance.

2. *Number of Uses*.

   a. As specified under Section 3.01(A) of this Ordinance, more than one (1) Principal Use may be permitted on a Lot, and any number of Uses allowed in the MU District are permitted within each existing Building provided the Building size and floor area remain the same as it was on the effective date of this Ordinance.

   b. For existing Buildings that are enlarged, the number of uses permitted per Building shall be the same number (at least one) that occupied the Building on the effective date of this Ordinance.

3. All uses permitted within this District shall also comply with Article 4 Supplemental Regulations of this Ordinance.

(C) *Design Standards*.

1. Table 2.08 specifies the district's bulk and area design standards.

2. In addition to the bulk and area design standards specified in Table 2.08, the following design standards shall also apply:

   a. *Maximum Permitted Height*.

      (1) *Principal Buildings and Structures*. Thirty-five (35) feet.

      (2) *Accessory Buildings and Structures*. Twenty-five (25) feet; provided however, that every Accessory Building or Structure higher than fifteen (15) feet shall be setback a minimum horizontal distance equal to its height from the closest side and rear Lot line.

   b. *Maximum Density*. The maximum dwelling units per acre shall be limited to the following:

      (1) *MU District*. Eight (8) units per acre.

c. *Screening and Landscaping*. Any non-residential portion of the site Adjacent to or facing another residential use shall be screened pursuant to the requirements specified in Section 4.02 of this Ordinance.

d. *Waste Products*. Dumpsters may be permitted and shall be set back a minimum of twenty-five (25) feet from any adjoining residential use or property within the R1, R2, and R3 zones. All trash dumpsters shall be located within a Side or Rear Yard, screened from adjoining Streets and properties, and completely enclosed within a masonry or fenced enclosure equipped with a self-latching door or gate.

Table 2.08, Mixed-Use District (MU) Bulk and Area Design Standards

PERMITTED USES PER TABLE 3.01	BULK AND AREA REGULATIONS						
	Min. Lot Area	Min. Lot Width	Max. Lot Coverage	Minimum Yard Setbacks			
				Front	Side		Rear
All Principal Permitted Uses	10,000 sq. ft.	30 ft.	60%	20 ft.	A total of at least 5 ft. from both of the side Lot lines with one side being no less than 5 ft. from the Adjoining Lot line.		10 ft.
Accessory Uses	N/A			15 ft. behind Principal Building Line; or when no Principal Building exists,15 ft. behind the required principal Front Yard setback line.	5 ft.		
Municipal Services and Utilities, Public Recreation Facilities, Nature Preserves (including Open Spaces)	2,500 sq. ft.	50 ft.	40%	20 ft.	15 ft.	30 ft.	20 ft.

Section 2.09 Commercial District (C)

(A) *Purpose.* The Commercial District (C) provides suitable locations for highway-oriented retail, service, and entertainment businesses. The uses may involve outdoor activities and/or storage areas like automobile, boat and trailer sales, and service establishments. The uses provided in this district are meant to serve local residents, as well as those motorists passing through the Township. Access to these areas is provided by adjoining Minor Arterial or Major Collector Streets.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses of this Ordinance.

2. All uses permitted within this District shall also comply with Article 4 Supplemental Regulations of this Ordinance.

(C) *Design Standards*.

1. Table 2.09 specifies the district's bulk and area design standards.

2. In addition to the bulk and area design standards specified in Table 2.09, the following design standards shall also apply:

   a. *Maximum Permitted Height*. Thirty-five (35) feet for both Principal and Accessory Buildings and Structures.

   b. *Buffering, Screening, and Landscaping*.

      (1) Commercial Buildings, Structures, parking lots, loading areas, and outdoor storage areas adjoining a residential use or land within the R1, R2, R3, or MU district shall maintain a fifty (50) buffer setback from the property line and provide a landscaped visual screen pursuant to Section 4.02 of this Ordinance.

      (2) A visual screen pursuant to Section 4.02 of this Ordinance must be provided along any adjoining lands within a R1, R2, R3, or MU district, regardless of whether or not the R1, R2, R3, or MU district parcel is developed.

      (3) Any portion of the site not used for Buildings, Structures, parking lots, loading areas, outdoor storage areas, and sidewalks shall be maintained with a vegetative ground cover and other ornamental plantings pursuant to Section 4.02 of this Ordinance. A minimum ten (10) foot wide landscape strip shall be provided along all property lines. Such landscape strip does not apply for that portion of the site occupied by a joint parking lot and/or loading area shared by adjoining uses.

   c. *Outdoor Storage*. Outdoor storage is permitted, provided all outdoor storage areas are screened from adjoining Streets and properties, and they comply with all setbacks specifically imposed thereon as specified in this Section. The outdoor storage areas for retail automobile, motorcycle, or boat sales need not be screened from adjoining Streets.

   d. *Waste Products*. Dumpsters may be permitted and shall be set back a minimum of fifty (50) feet from any adjoining residential use or property within the R1, R2, R3, and MU Districts. All trash dumpsters shall be located within a Side or Rear Yard,

screened from adjoining Streets and properties, and completely enclosed within a masonry or fenced enclosure equipped with a self-latching door or gate.

Table 2.09, Commercial District (C) Bulk and Area Design Standards

PERMITTED USES PER TABLE 3.01	BULK AND AREA REGULATIONS						
	Min. Lot Area	Min. Lot Width	Max. Lot Coverage	Minimum Yard Setbacks			
				Front	Side		Rear
All Permitted Uses w/On Lot Water AND On-Lot Sewer	60,000 sq. ft.	150 ft.	50%	All buildings, structures (except permitted signs), and outdoor loading areas shall be set back at least 35 ft. from the street Right-of-Way; off-street parking lots and outdoor storage areas shall be set back a minimum of 10 ft. from the street Right-of-Way.	All buildings and structures (except permitted signs) shall be set back at least 20 ft. from the side lot lines. Off-street parking lots, loading areas, and outdoor storage areas shall be set back at least 10 ft. from the side lot lines, unless joint parking facilities are shared by adjoining uses. In such instances, one of the side yard setbacks can be waived solely for parking and/or loading facilities		All buildings, structures, off-street parking lots, loading areas, and outdoor storage areas shall be set back at least 10 ft. from the rear lot line
All Permitted Uses w/Public Water OR Public Sewer	30,000 sq. ft.	150 ft.	60%				
All Permitted Uses w/Public Water AND Public Sewer	15,000 sq. ft.	100 ft.	70%				
Municipal Services and Utilities, Public Recreation Facilities, Nature Preserves (including Open Spaces)	2,500 sq. ft.	50 ft.	40%	20 ft.	15 ft.	30 ft.	20 ft.

Section 2.10 Industrial District (I)

(A) *Purpose.* The Industrial District (I) provides for a wide range of industrial activities that contribute to the well-being of the Township by diversifying its economy and providing valuable employment opportunities. The required lot sizes have been kept small to accommodate the start-up industries that are likely to emerge; however, larger and heavier industries have also been permitted. This district provides for light industrial uses as permitted by right but requires obtainment of a conditional use for heavier and potentially more impactful types of industrial uses. These areas have been located near existing public utility service areas and along major Streets. Design standards have been imposed to create attractive site designs and moderate the impacts associated with industrial uses. Substantial setbacks are used to protect adjoining residences.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses of this Ordinance.

2. All uses permitted within this District shall also comply with Article 4 Supplemental Regulations of this Ordinance.

(C) *Design Standards*.

1. Table 2.10 specifies the district's bulk and area design standards.

2. In addition to the bulk and area design standards specified in Table 2.10, the following design standards shall also apply:

   a. *Maximum Permitted Height*. The height of any Principal or Accessory Building or Structure may exceed a maximum permitted height of thirty-five (35) feet, provided that the Building or Structure is setback from the minimum setback line an additional two (2) feet for every additional one (1) foot that exceeds thirty-five (35) feet, up to a maximum height of fifty (50) feet. Chimneys, flagpoles, water tanks, and other mechanical appurtenances may be built to a height not exceeding seventy-five (75) feet above the finished grade when erected upon or as an integral part of a Building.

   b. *Buffering, Screening, and Landscaping*. Any non-residential portion of the site Adjacent to or facing another residential use shall be screened pursuant to the requirements specified in Section 4.02 of this Ordinance.

   c. *Outdoor Storage*. Outdoor storage is permitted, provided all outdoor storage areas are screened from adjoining Streets and properties, and they comply with all setbacks specifically imposed thereon as specified in this Section. Outdoor display areas for heavy equipment and vehicles need not be screened from adjoining Streets.

   d. *Waste Products*. All dumpsters shall be set back a minimum of twenty-five (25) feet from any adjoining R1, R2, R3, or MU district properties, and shall comply with the screening requirements specified under Section 4.02. of this Ordinance. All trash dumpsters shall be located within a side or rear yard, screened from adjoining Streets and properties, and completely enclosed within a masonry or fenced enclosure equipped with a self-latching door or gate.

Table 2.10, Industrial District (I) Bulk and Area Design Standards

PERMITTED USES PER TABLE 3.01	BULK AND AREA REGULATIONS						
	Min. Lot Area	Min. Lot Width	Max. Lot Coverage	Minimum Yard Setbacks			
				Front	Side		Rear
All Permitted Uses	1 acre	200 ft.	70%	150 ft.	100 ft.		150 ft.
Accessory Recreation Uses	N/A			20 ft.	50 ft.		50 ft.
Municipal Services and Utilities, Public Recreation Facilities, Nature Preserves (including Open Spaces)	2,500 sq. ft.	50 ft.	40%	20 ft.	15 ft.	30 ft.	20 ft.

Section 2.11 Quarry District (Q)

(A) *Purpose.* The Quarry District (Q) provides appropriate areas of the Township for quarrying and processing of quarry raw materials; to provide reasonable standards for quarry operations to prevent conditions that would interfere with the reasonable use of other properties within this district; and to allow uses of a temporary nature in locations premature for quarrying.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses of this Ordinance.

2. All uses permitted within this District shall also comply with Article 4 Supplemental Regulations of this Ordinance.

(C) *Design Standards*.

1. Table 2.11 specifies the district's bulk and area design standards.

2. In addition to the bulk and area design standards specified in Table 2.11, the following design standards shall also apply:

   a. *Maximum Permitted Height*. The height of any Principal or Accessory Building or Structure may exceed a maximum permitted height of thirty-five (35) feet, provided that the Building or Structure is setback from the minimum setback line an additional two (2) feet for every additional one (1) foot that exceeds thirty-five (35) feet, up to a maximum height of fifty (50) feet. Chimneys, flagpoles, water tanks, and other mechanical appurtenances may be built to a height not exceeding seventy-five (75) feet above the finished grade when erected upon or as an integral part of a Building.

   b. *Buffering, Screening, and Landscaping*. Any non-residential portion of the site Adjacent to or facing another residential use shall be screened pursuant to the requirements specified in Section 4.02 of this Ordinance.

   c. *Outdoor Storage*. Outdoor storage is permitted, provided all outdoor storage areas are screened from adjoining Streets and properties, and they comply with all setbacks specifically imposed thereon as specified in this Section.

   d. *Waste Products*. All dumpsters shall be set back a minimum of twenty-five (25) feet from any adjoining R1, R2, R3, or MU district properties, and shall comply with the screening requirements specified under Section 4.02 of this Ordinance. All trash dumpsters shall be located within a side or rear yard, screened from adjoining Streets and properties, and completely enclosed within a masonry or fenced enclosure equipped with a self-latching door or gate.

Table 2.11, Quarry District (Q) Bulk and Area Design Standards

PERMITTED USES PER TABLE 3.01	BULK AND AREA REGULATIONS						
	Min. Lot Area	Min. Lot Width	Max. Lot Coverage	Minimum Yard Setbacks			
				Front	Side		Rear
All Permitted Uses	1 acre	200 ft.	70%	150 ft.	100 ft.		150 ft.
Accessory Recreation Uses	N/A			20 ft.	50 ft.		50 ft.
Municipal Services and Utilities, Public Recreation Facilities, Nature Preserves (including Open Spaces)	2,500 sq. ft.	50 ft.	40%	20 ft.	15 ft.	30 ft.	20 ft.

Section 2.12 Floodplain Overlay District (FPO)

(A) *Purpose*. The purpose of the Floodplain Overlay (FPO) District is to:

1. Regulate the permitted use of flood-prone areas;

2. Promote the general health, safety, and welfare of the community;

3. Minimize danger to public health by protecting water supply and natural drainage;

4. Require the utilization of appropriate construction practices and design standards in order to prevent or minimize flood damage in the future;

5. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing the unwise Use and development of property in areas subject to flooding; and

6. Comply with federal and state floodplain management requirements.

(B) *Authority*. The Pennsylvania Floodplain Management Act (Act 166-1978) and Sections 604 and 605 of the MPC grant municipalities the authority to identify flood-prone areas subject to periodic flooding and regulate with specific control the Permitted Use, type of construction and Height of floor levels above base flood elevation permitted in the Area to lessen or avoid the hazards to persons and damage to property resulting from the accumulation of storm or flood waters.

(C) *Applicability*. Except as modified by the FPO District the provisions of the applicable base zoning district(s) shall apply to all development within the boundary of the designated area. If regulations conflict, the applicable FPO regulations shall prevail. Whenever the FPO District is established, any subsequent application to change the base zoning district shall not be construed to be an application to eliminate the FPO district for the property covered by the application. An intent to eliminate the FPO district on a given property shall be expressly stated to be part of the application.

(D) *Floodplain Management Ordinance*. The West Pennsboro Township Floodplain Management Ordinance (2023-01) and any subsequent related ordinance or amendment related thereto, which is incorporated herein this Ordinance by reference, establishes the requirements for floodplain management including general provisions, interpretations, and definitions, establishes floodplain areas, boundary disputes, alternations, criteria for Building and site plan approval, administration, Appeals and penalties, government actions, and municipal liability.

(E) *Boundaries of District*.

1. To the extent the Zoning Map and Floodplain Management Ordinance of West Pennsboro Township identifies areas prone to or otherwise at risk of flood, including without limitation by reference to a Flood Insurance Rate Map or FEMA Flood Insurance Study, such areas shall be deemed identified as flood-prone areas for purposes of this Ordinance and included within the FPO District.

2. Boundaries indicated as approximately following the center lines of Street or Alley Rights-of-Way shall be construed to follow such center lines;

3. Boundaries indicated as parallel to, or extensions of features indicated in the above shall be so construed; and

4. Where physical or cultural features existing on the ground are different with those shown on the Flood Insurance Rate Map, or in other circumstances not covered by the above, the Zoning Officer shall interpret the FPO District boundaries.

(F) *Interpretation of Ordinance Provisions*.

1. In interpreting the language of the FPO District and the extent of underlying zoning district regulation upon use of property, where doubt exists between regulations, the stricter regulation shall govern.

2. Any challenges to the Township's interpretation of the applicability of the FPO shall be Appealed in accordance with the requirements outlined Section 1.14 Appeals and of this Ordinance Boundary Interpretation and Appeals Procedure, and Article IX, Zoning Hearing Board and Other Administrative Proceedings, of the MPC.

3. In the event any provisions concerning the FPO District is declared inapplicable, as a result of any legislative or administrative actions or judicial discretion, the basic underlying district provision shall remain applicable.

Section 2.13 Riparian Buffer Overlay (RBO) District

(A) *Purpose*. Under the authority of the MPC, as amended, other Commonwealth and federal statutes, and in recognition of the fact that natural features contribute to the quality of life in the Township, the following riparian Buffer regulations are enacted to provide reasonable controls governing the restoration, conservation, disturbance, and management of existing riparian corridors by establishing a designated Riparian Buffer Overlay Zoning District.

(B) The Riparian Buffer Overlay Zoning District shall apply to all properties or any other improvements that require subdivision or land development plan submission if they are within or touch the Riparian Buffer Overlay Zoning District within West Pennsboro Township.

(C) Any required riparian Buffer preservation and maintenance shall remain the sole responsibility of each individual property Owner or as otherwise stipulated by the West Pennsboro Township Stormwater Management Ordinance.

(D) In addition, the specific purposes and intent of this section are to:

1. Conserve the natural features important to land or water resources (e.g., headwater areas, groundwater recharge zones, floodways, floodplains, springs, streams, wetlands, woodlands, prime wildlife habitats).

2. Conserve natural, scenic, and recreation areas within and Adjacent to riparian areas for the region's benefit.

3. Reduce the amount of nutrients, sediment, organic matter, pesticides, and other harmful substances that reach watercourses, wetlands, subsurface, and surface water bodies by using scientifically proven processes including filtration, deposition, absorption, adsorption, plant uptake, and denitrification, and by stabilizing. Further, to minimize concentrated flows through the use of level spreaders and/or similar stormwater management devices used to disburse concentrated flow uniformly over the ground as sheet flow.

4. Improve and maintain the safety, reliability, and adequacy of the Township's water supply for domestic, agricultural, commercial, industrial, and recreational uses along with sustaining diverse populations of aquatic plants and animals.

5. Regulate the land use, siting, and engineering of development to be consistent with the intent and objectives of this section and accepted conservation practices, as well assure that the impacts of such development remain within the carrying capacity of existing natural resources.

6. Assist in the implementation of pertinent state laws concerning erosion and sediment control practices, specifically erosion control, of the Pennsylvania Clean Streams Law, Act 394, P.L. 1987, Chapter 102 of the Administrative Code (as amended October 10, 1980, Act 157 P.L.), Title 25, and any subsequent Amendments thereto, as administered by the Pennsylvania Department of Environmental Protection and the Cumberland County Conservation District.

(E) *Definition, Establishment, Width Determination, Applicability, and Interpretation*.

1. *Definition*. The Riparian Buffer Overlay is a zoning district consisting of areas surrounding swales, creeks, streams, water bodies, intermittent watercourses and delineated wetlands as well as those encountered during subdivision and land development. These areas intercept surface water runoff, subsurface flow, and deep groundwater flows from upland sources and remove or Buffer the impact of nutrients, sediment, organic matter, pesticides, or other pollutants prior to entry into surface waters.

2. *Establishment*. The establishment of a Riparian Buffer Overlay Zoning District applies to the following areas which are identified on the officially adopted Zoning Map of West Pennsboro Township:

   a. Lands Adjacent to streams within West Pennsboro Township.

   b. Lands Adjacent to intermittent watercourses within West Pennsboro Township.

   c. Lands, water bodies and wetlands as regulated by state and/or federal designation.

   d. Similar land and/or water to those outlined above as encountered during the process of subdivision and land development within West Pennsboro Township.

3. *Width Determination*.

   a. Except as required by Chapter 102 of the Pennsylvania State Code, the Riparian Buffer Overlay shall be measured to be the greater of the limit of the 100-year floodplain or a minimum of thirty-five (35) feet from the top of the streambank (on each side). Where the edge of waterway of an intermittent watercourse cannot be determined, the width of the Riparian Buffer Overlay Zoning District shall be measured beginning from the center line of the channel. Where a defined bed and bank exist, the edge shall be established based on bank full flow.

   b. Where slopes of twenty-five (25) percent or greater are located within the Riparian Buffer Overlay Area defined in Subsection (E)3.a., this Buffer Area shall extend the entire distance of the steep sloped area, not to exceed one hundred (100) feet past the nearest point of the Riparian Buffer Overlay area defined in Subsection (E)3.a. The sloped area shall be measured where there are five (5) adjacent contour intervals of two (2) feet each such that, in aggregate, they delineate a slope of at least twenty-five (25) percent.

c. The Riparian Buffer Overlay Zoning District shall also include a minimum Buffer width of thirty-five (35) feet around the entire perimeter of the outer edge of wetlands and water bodies greater than five thousand (5,000) square feet in Area that are not located along a stream.

4. *Applicability*. The provisions of this section shall apply as follows:

a. The Developer/Applicant shall be responsible for identifying the location of the Riparian Buffer Overlay Zoning District boundary on any plan that is submitted to West Pennsboro Township for the following:

(1) Land development as defined in the West Pennsboro Township Subdivision and Land Development Ordinance.

(2) Approval for improvements that require a zoning or Building permit. Although mitigation may not be required for such activity, the boundary must still be delineated. Such permit(s) shall only be required when construction or erection of any Buildings or Structure(s) within or touching the Riparian Buffer Overlay Zones of West Pennsboro Township is located on the ground or attached to something on the ground and is greater than one thousand (1,000) square feet in size.

b. This initial delineation of the overlay district boundary shall be subject to review and approval by the West Pennsboro Township Zoning Officer.

c. These requirements shall not apply to any existing Primary or Accessory Buildings or to any of the following: transportation facilities, fences, lawns, gardens, utility lines, decks and piers, or to interior renovations, septic and essential services.

5. *Interpretation of Ordinance Provisions*. In interpreting the language of the Riparian Buffer Overlay District and the extent of the underlying zoning district(s) regulating the use of property, where doubt exists between regulations, the stricter regulation shall govern. Any challenges to the Township's interpretation of the applicability of the Riparian Buffer Overlay Zoning District shall be Appealed in accordance with the requirements outlined Section 1.14 Appeals of this Ordinance.

(F) *Uses Permitted*. The following uses not involving Buildings or Structures are permitted in the Riparian Buffer Overlay Zoning District.

1. *Uses Permitted by Right*. The following uses, when permitted in the underlying zoning district, shall be permitted by right:

a. Common Open Space.

b. Forestry Operation in accordance with the Pennsylvania Clean Stream Law (35 P.S. §§ 691.1—691.1001) and regulations at 25 Pa. Code Chapter 102, plus the best management practices outlined in the 2001 edition of the Pennsylvania State University College of Agricultural Sciences' publication entitled *Best Management Practices for Pennsylvania Forests*.

c. Level spreaders or other similar stormwater structures used to disperse concentrated stormwater runoff uniformly over the ground surface as sheet flow. These devices shall be located a minimum of fifty (50) feet from the edge of any identified

watercourse or water body, subject to any other conditions imposed by the Board of Supervisors.

d. Naturalized stormwater basins in compliance with the Pennsylvania Clean Stream Law (35 P.S. §§ 691.1—691.1001) and regulations at 25 Pa. Code Chapter 102. The entire basin shall be located a minimum of fifty (50) feet from the edge of any identified watercourse or water body, subject to any other conditions imposed by the Board of Supervisors.

e. Nature Preserve.

f. New stream crossings for roads, centralized sewer and/or water lines and public utility transmission lines and/or their related appurtenances (i.e., towers, well houses, pump and lift stations), provided that they are:

(1) Designed and installed in accordance with the stream crossing standards outlined under Section 2.17(H) of this Ordinance.

(2) All disturbance must be mitigated at a ratio of 1:1 for each square foot of disturbance and compliance with the Pennsylvania Clean Stream Law (35 P.S. §§ 691.1—691.1001) and regulations at 25 Pa. Code Chapter 102, plus the best management practices outlined in the latest edition of the Pennsylvania State University College of Agricultural Sciences' publication entitled *Best Management Practices for Pennsylvania Forests.*

g. Park.

h. Passive use areas such as camps, campgrounds and picnic areas and active recreation areas such as ball fields, playgrounds and courts. These uses shall be designed in a manner that shall not create concentrated stormwater flow; subject to any other conditions as imposed by the Board of Supervisors. The use of level spreaders or similar devices may be required.

i. Placement of research and monitoring devices such as staff gauges, water recording, water quality testing, cross vanes, weirs and related demonstration facilities.

j. Removal of trees where such removal is necessary as a means to eliminate dead, diseased or hazardous stands of trees that jeopardize public safety, provided that such removal is in compliance with the Pennsylvania Clean Stream Law (35 P.S. §§ 691.1—691.1001) and regulations at 25 Pa. Code Chapter 102, plus the best management practices outlined in the 2001 edition of the Pennsylvania State University College of Agricultural Sciences' publication entitled *Best Management Practices for Pennsylvania Forests.*

k. Stream bank stabilization and/or recommended native tree reforestation, in compliance with the recommendations of this section and as outlined in the latest edition of the Pennsylvania State University College of Agricultural Sciences' publication entitled *Best Management Practices for Pennsylvania Forests.*

l. Stream crossings for farm vehicles and/or livestock if part of a federal, state and/or privately funded Cumberland County Conservation District and/or local nonprofit riparian Buffer improvement project.

m. Wildlife sanctuaries, nature preserves, forest preserves, fishing areas, passive areas of public and private parklands and native planting and reforestation in compliance with the recommendations of this section and the best management practices outlined in the latest edition of the Pennsylvania State University College of Agricultural Sciences' publication entitled *Best Management Practices for Pennsylvania Forests*.

2. *Required Yards*. The required Setback Area may incorporate a portion of the zoning overlay; however, at least one-half (1/2) of each required front, side or rear yards on any private lots shall be entirely outside of the Riparian Buffer Overlay District.

(G) *Riparian Buffer Management*. No development activities shall be permitted within the Riparian Buffer Overlay Zoning District unless specifically permitted by this section. All such activities are subject to the following:

1. *Land Development*. Within the Riparian Buffer Overlay Zoning District, Land Development shall only be permitted when the impacts of such actions are mitigated at a 1:1 square foot replacement ratio of the total disturbed area.

2. Zoning and Building Permits. For activities that only require a zoning and/or Building permit and include improvements within the Riparian Buffer Overlay Zoning District, riparian Buffer replacement or restoration is required. If provided, the Buffer should be at a 1:1 square foot replacement ratio of the total disturbed area.

3. Projects for which mitigation is only recommended and for which a Buffer is provided shall identify the existing conditions (vegetation, floodplain, wetlands, soils, slopes, etc.), all proposed activities and, if applicable, any proposed management techniques, including any measures necessary to offset disturbances to land within the Riparian Buffer Overlay Zoning District.

4. *Vegetation Selection*. To function properly, dominant native vegetation in the riparian Buffer should be selected from the list of native plants most suited to riparian areas The Township may also require that the suitability of planting species be verified by local qualified experts at the Cumberland County Conservation District, the Pennsylvania State Cooperative Extension and/or other state and federal forest agencies.

(H) *Stream Crossing Standards*. All stream crossings permitted under Section 2.17(F)1 shall comply with and incorporate as required the following minimum standards:

1. Any stream crossings requiring any activity in, under and/or over any body of water shall first consult the Department of Environmental Protection's South Central Regional Office, Watershed Management Permitting and Technical Services Section.

2. The width of any Right-of-Way shall not be greater than the minimum Right-of-Way width required by Township ordinances unless additional Right-of-Way is offered for dedication.

3. Stream crossings shall be designed to cross in a manner that minimizes disturbance.

(I) *Inspection of Riparian Buffer Overlay Zoning District*. The Riparian Buffer Overlay Zoning District may also be inspected periodically by the Township Engineer and/or Zoning Officer Administrator to determine compliance with this section or when excessive or potentially problematic erosion, sedimentation, hazardous trees or an unauthorized activity or Structure is brought to the attention of West Pennsboro Township officials.

ARTICLE 3 ZONING USES

Section 3.01 General Provisions

The following general provisions apply to the uses outlined in this Article.

(A) More than one (1) principal use may be erected on a single lot provided that all lot and yard requirements, standards, and other requirements of this Ordinance shall be met for each Structure, as though it were on an individual lot. In addition, such proposals require an approved land development plan, and must provide individually approved methods of sewage disposal.

(B) No Building, Structure, or Land shall be used in any way other than the uses permitted in the zoning district in which the Building, Structure, or Land is located, with the exception of the Continuation of Existing Uses specified in Paragraph (C) below.

(C) *Continuation of Existing Uses*. The continuation of any Use existing and permitted at the time of adoption of these regulations is permitted, subject to the Nonconformities standards specified under Section 4.09, Nonconformities, of this Ordinance.

Section 3.02 Applicability

(A) Table 3.01, Table of Permitted Uses, identifies the Principal, Accessory, and Temporary Uses allowed in each zoning district and are defined in this Ordinance.

(B) Principal, Accessory, and Temporary Uses are given one of the following designations specified in Table 3.01.

1. *Permitted by Right ("R")*. These Uses are permitted automatically by right in the zoning districts in which they are listed are subject to the general regulations under this Ordinance.

2. *Permitted by Conditional Use ("C")*. These Uses are not permitted by right but subject to specific standards and more detailed and formal review procedures as specified under Section 1.17 of this Ordinance.

3. *Non-Permitted Uses*. Uses not permitted (whether expressly permitted or permitted upon interpretation and classification by the Zoning Officer) within a zoning district shall be deemed excluded. The Zoning Officer shall make a Determination of the classification of all land Uses within the context and intent of this Ordinance and may issue a Determination regarding whether a particular Use is permitted or excluded in a zoning district, all in accordance with this Ordinance.

(C) Permitted Uses are grouped into general categories, which are further broken into subcategories and specific Use types that are specifically defined in this Ordinance.

Section 3.03 Unlisted Uses

(A) If a Use is clearly not provided for in this Ordinance, whether as Permitted by Right or Permitted by Conditional Use, within any Zoning District within the Township, then the proposed Use shall be considered a Conditional Use and shall be approved pursuant to the requirements specified under Section 1.17 of this Ordinance. In addition to such requirements, the proposed Use shall also be approved based on the following Use character eligibility standards:

1. The proposed Use shall be consistent with and meet the stated purpose and intent of the zoning district within which the Use is being proposed.

2. The proposed Use shall be consistent with and uphold the general form, function, and design character of the neighborhood within which the Use is being proposed.

3. The Use shall be similar to and compatible with the permitted uses in the zone in which the subject property is located, is not permitted in any other zone under the terms of this Ordinance, and in no way is in conflict with the general purposes and intent of this Ordinance.

4. The Use shall consider the community development goals and objectives of the West Pennsboro Township Comprehensive Plan.

(B) The burden of proof shall be upon the Applicant to demonstrate that the proposed Use meets the foregoing criteria and would not be detrimental to the public health, safety, and welfare of the Township and its residents.

(C) For the purposes of this section, a specifically denied Use shall be considered a Use that is not a permitted Use in the zone in question but is a permitted Use in another zoning district.

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Table 3.01, Permitted Uses.

Table 3.01, Permitted Uses. WEST PENNSBORO TOWNSHIP ZONING ORDINANCE DISTRICT USE TABLE Key: R = Permitted by Right C = Permitted by Conditional Use Blank Cell = Non-Permitted Use	MAPPED ZONING DISTRICTS							
	Agriculture (A)	Low Density Residential (R1)	Medium Density Residential (R2)	High Density Residential District (R3)	Mixed-Use District (MU)	Commercial (C)	Industrial (I)	Quarry (Q)
PRINCIPAL USES (SECTION 3.04)								
RESIDENTIAL AND LODGING USES [SECTION 3.04 PARAGRAPH (A)]								
Bed and Breakfast	R	R	R		R			
Community Residence, Group Home		R	R		R			
Community Residence, Halfway House					C	C		
Dwelling, Multi-Family, Apartment					C			
Dwelling, Multi-Family Conversion			C		C			
Dwelling, Single Family Detached	R	R	R		R			
Dwelling, Single Family Semi-Detached, Duplex			R		R			
Dwelling, Single Family Semi-Attached, Townhouse			R		R			
Hotel						C		
Manufactured Home	R	R	R	R	R			
Manufactured Home Community				R				
Mixed-Use Building					R			
Motel						C		
Rooming House and Boarding House			C		C			
Temporary Shelter Facility			C		C			
CIVIC AND INSTITUTIONAL USES [SECTION 3.04 PARAGRAPH (B)]								
Assembly, General					R	R		
Assembly, Neighborhood					R	R		
Cemetery	R					C		

Table 3.01, Permitted Uses. **WEST PENNSBORO TOWNSHIP ZONING ORDINANCE** **DISTRICT USE TABLE** Key: R = Permitted by Right C = Permitted by Conditional Use Blank Cell = Non-Permitted Use	**MAPPED ZONING DISTRICTS**							
	Agriculture (A)	**Low Density Residential (R1)**	**Medium Density Residential (R2)**	**High Density Residential District (R3)**	**Mixed-Use District (MU)**	**Commercial (C)**	**Industrial (I)**	**Quarry (Q)**
Hospital						C		
House of Worship	R	R	R		R	R	R	
Library/Museum					R	C		
Long Term / Continuum of Care Facility	C	C	C			R		
Police/Fire/EMS	R	R	R	R	R	R	R	R
School, Post-Secondary Education					R	R	R	
School, Pre-K, K-12, and Vocational Education	R	R	R	R	R	R	R	
AGRICULTURE, FORESTRY, RECREATION AND OPEN SPACE USES [SECTION 3.04 PARAGRAPH (C)]								
Agricultural Operation	R	R	R	R	R	R	R	R
Confined Animal Feeding Operation (CAFO)	R							
Concentrated Animal Operation (CAO)	R							
Commercial Stock Yards and/or Feedlots	R	R					R	
Equine Activities	R	R	R				C	
Forestry Operation	R	R	R	R	R	R	R	R
Golf Course and Driving Ranges	C						C	
Nature Preserve	R	R						
Recreation Facility, Commercial or Private	C	C						
Recreation Facility, Public	R	R	R	R	R	R	R	R
Shooting Range, Indoor	C	C				R	R	
Shooting Range, Outdoor	C				C	C	C	
RETAIL USES [SECTION 3.04 PARAGRAPH (D)]								
Commercial Equipment and Supply	C				C	R		

Table 3.01, Permitted Uses. **WEST PENNSBORO TOWNSHIP ZONING ORDINANCE** **DISTRICT USE TABLE** Key: R = Permitted by Right C = Permitted by Conditional Use Blank Cell = Non-Permitted Use	**MAPPED ZONING DISTRICTS**							
	Agriculture (A)	**Low Density Residential (R1)**	**Medium Density Residential (R2)**	**High Density Residential District (R3)**	**Mixed-Use District (MU)**	**Commercial (C)**	**Industrial (I)**	**Quarry (Q)**
Convenience Store		C			R	R		
Drive Through Only					R	R		
General Retail					R	R		
Grocery Store					R	R		
Medical Marijuana Dispensary						R		
Neighborhood Retail					R	R		
Outdoor Sales Lot					R	R	R	
SERVICE USES [SECTION 3.04 PARAGRAPH (E)]								
Adult Day Care Center					R	R		
Assisted Living Facility	C		C		C	C		
Automobile Car Wash					R	R	R	
Automobile/ Truck Fueling and Repair and Towing Service					C	R	R	
Automobile, Truck, Limousine Sales and Rental Service						R	R	
Brew Pub	R				R	R	R	
Child Care Center					R	R		
Community Services	R				R	R		
Construction Related Services	R					R	R	
Craftsman Services	R				R	R	R	
Drinking Place	R				R	R		
Eating Place	R				R	R		
Electronic Cigarette / Vaporizer Store						R	R	

Table 3.01, Permitted Uses. **WEST PENNSBORO TOWNSHIP ZONING ORDINANCE** **DISTRICT USE TABLE** Key: R = Permitted by Right C = Permitted by Conditional Use Blank Cell = Non-Permitted Use	**MAPPED ZONING DISTRICTS**							
	Agriculture (A)	**Low Density Residential (R1)**	**Medium Density Residential (R2)**	**High Density Residential District (R3)**	**Mixed-Use District (MU)**	**Commercial (C)**	**Industrial (I)**	**Quarry (Q)**
Entertainment Assembly	C				C	R		
Family Child Care Home	R	R	R	R	R	R	R	
Family Entertainment Center					R	R		
Funeral Home / Mortuary					R	R		
General Service	R				R	R		
Group Child Care Home	R	R	R	R	R	R		
Kennel	C	C						
Massage Establishment					R	R		
Medical Clinic					R	R		
Microbrewery, Microdistillery, Microwinery	R				R	R	R	
Methadone Treatment Facility						C	C	
Neighborhood Service	R	R	R		R	R		
Private Club	C				R	R		
Recreational Campground	C	C						
Self-Storage Facility					R	R	R	
Smoking Places						R	R	
Tattoo/Piercing Parlor					R	R	R	
Truck Stop							C	
Truck Wash							C	
Veterinary / Animal Hospital	R	R			R	R		
ADULT USES [SECTION 3.04 PARAGRAPH (F)]								
Adult Establishments							C	

Table 3.01, Permitted Uses. **WEST PENNSBORO TOWNSHIP ZONING ORDINANCE** **DISTRICT USE TABLE** Key: R = Permitted by Right C = Permitted by Conditional Use Blank Cell = Non-Permitted Use	**MAPPED ZONING DISTRICTS**							
	Agriculture (A)	**Low Density Residential (R1)**	**Medium Density Residential (R2)**	**High Density Residential District (R3)**	**Mixed-Use District (MU)**	**Commercial (C)**	**Industrial (I)**	**Quarry (Q)**
EMPLOYMENT USES [SECTION 3.04 PARAGRAPH (G)]								
Office Uses					R	R	R	
INFRASTRUCTURE USES [SECTION 3.04 PARAGRAPH (H)]								
Airport	C							
Heliport and Vertiport	C						R	
Helistop	C						R	
Principal Solar Energy Systems (PSES)					C	C	C	
Principal Wind Energy Systems (PWES)					C	C	C	
Transit Bus Stops					R	R	R	
Transit Facility							R	
Wireless Communications Facilities, Small Wireless Communications Inside the Public Rights-of-Way	R	R	R	R	R	R	R	R
Wireless Communications Facilities, Small Wireless Communications Outside the Public Rights-of-Way					R	R	R	
Wireless Communications Facilities, Tower-Based	C	C			C	C	C	C
INDUSTRIAL USES [SECTION 3.04 PARAGRAPH (I)]								
Automotive Dismantler and Recycler							R	
Brewery, Distillery, Winery					C		R	
Craftsman Industrial	R				C	R	R	
Data Processing Center							C	
Junkyards							R	
Meat Processing Establishment							R	

Table 3.01, Permitted Uses. WEST PENNSBORO TOWNSHIP ZONING ORDINANCE DISTRICT USE TABLE Key: R = Permitted by Right C = Permitted by Conditional Use Blank Cell = Non-Permitted Use	MAPPED ZONING DISTRICTS							
	Agriculture (A)	Low Density Residential (R1)	Medium Density Residential (R2)	High Density Residential District (R3)	Mixed-Use District (MU)	Commercial (C)	Industrial (I)	Quarry (Q)
Medical Marijuana Grower / Processor Facility							C	
Mining and Mineral Extraction								R
Outdoor Storage Yard						R	R	R
Solid Waste Disposal Facility							C	
Truck Terminal							C	
Truck or Truck Trailer Parking							C	
Warehouse and Distribution							C	
ACCESSORY USES (SECTION 3.05)								
Accessory Dwelling Unit	R	R	R		R			
Accessory Solar Energy Systems	R	R	R	R	R	R	R	R
Accessory Wind Energy Systems	R	R	R	R	R	R	R	R
Agricultural Commercial Enterprise	R	R	R					
Agritourism Marketing Enterprise	R	R	R					
Airstrip (Private) / Helistop	C					C	C	
Anerobic Digestor / Biogas System	C	C					C	
Automobile Car Wash						R	R	
Carport, Portable or Temporary	R	R	R	R	R			
Drive-Through Facility					R	R		
Electric Vehicle Charging Station, Levels 1 & 2	R	R	R	R	R	R	R	R
Electric Vehicle Charging Station, Level 3 (DC Fast Charge)					R	R	R	R
Farm Occupation	R	R	R					

Table 3.01, Permitted Uses. **WEST PENNSBORO TOWNSHIP ZONING ORDINANCE** **DISTRICT USE TABLE** Key: R = Permitted by Right C = Permitted by Conditional Use Blank Cell = Non-Permitted Use	**MAPPED ZONING DISTRICTS**							
	Agriculture (A)	**Low Density Residential (R1)**	**Medium Density Residential (R2)**	**High Density Residential District (R3)**	**Mixed-Use District (MU)**	**Commercial (C)**	**Industrial (I)**	**Quarry (Q)**
Home Occupation	R	R	R	R	R	R	R	
Keeping of Chickens (Applicable only to Non-farm Residential Uses)	R	R	R	R				
Keeping of Honeybees (Applicable only to Non-farm Residential Uses)	R	R	R	R				
Keeping of Domestic Livestock (Applicable only to Non-farm Residential Uses)	R	R	R	R				
Manure Storage Facility	R	R						
No-Impact Home-Based Business	R	R	R	R	R	R	R	
Outdoor Display and Sales	C				R	R	R	
Parking	R	R	R	R	R	R	R	R
Short-Term Rental	C	C			C			
Signs	See Article 5, Signs							
TEMPORARY USES (SECTION 3.06)								
Model Home and/or Subdivision Sales Office	R	R	R	R	R			
Open Air Market	R				R	R		
Temporary Construction Site Trailer	R	R	R	R	R	R	R	R
Temporary Outdoor Event and/or Retail Sales	R	R	R	R	R	R	R	

Section 3.04 Principal Uses

(A) *Residential and Lodging Uses*.

A category of Uses for residential and overnight accommodations.

1. Bed and Breakfast.

A privately owned, Single-Family Detached Dwelling Unit having a maximum of eight (8) rooms, all without cooking facilities, rented to guests daily with the service of providing breakfast to the guests by the proprietor facility. The following use regulations shall apply:

a. Shall not alter the residential nature of the neighborhood and/or the character of the Dwelling as a residence.

b. Kitchen facilities shall comply with 7 PA Code Ordinance 46, Pennsylvania Food Code, as administered by the Pennsylvania Department of Agriculture.

c. Access to guestrooms shall be via a main entrance, lobby, or foyer within the Building. No guestroom shall have a separate exterior access, except as may be required by applicable fire or Building codes.

d. No employees who are not otherwise eligible to be a member of the same household with the Owner of the Bed and Breakfast may live on-site.

e. A Bed and Breakfast may have a Sign in accordance with Article 5 of this Ordinance.

f. The Applicant shall furnish evidence that an approved means of sewage disposal and water supply shall be used.

2. Community Residence, Group Home.

A residential facility, also sometimes referred to as a "community living arrangement," licensed by the Commonwealth of Pennsylvania, that provides a home for Persons with Disabilities, or elderly individuals, excluding staff who do not reside on the property, who live and cook together as a single housekeeping unit. This definition shall not include a facility housing persons released from or under the jurisdiction of a government bureau of corrections or similar institution. This definition does not include persons occupying a hotel, dormitory, lodge, halfway house, boarding house or institution. A Group Home shall be a stable living environment which anticipates, contemplates, expects, and projects that occupants thereof shall reside in the group home for a term of not less than one (1) year in duration. The following use regulations shall apply:

a. *Maximum Number of Residents*:

(1) Agricultural District (A). Four (4)

(2) Low Density Residential District (R1): Eight (6)

(3) Medium Density Residential District (R2): Eight (8)

(4) Mixed Use District (MU): Eight (8)

a. In a narrative form, a statement of the proposed use, including its location, number of residents, name, telephone number, and contact person of the sponsoring agency.

b. A statement that all required approvals, permits, and licenses have been granted from the Federal, State, and County governments or other public agencies.

c. Accommodations in a Group Home shall be provided for no more than the maximum number of occupants or residents as permitted by the applicable Building code, fire code, and any other similar code that sets forth a maximum occupancy limit for a dwelling or Building. Applications for a group home shall specify the maximum number of residents or occupants to be housed or cared for at the facility.

d. The Group Home shall comply with all zoning regulations in the district in which the Group Home is located.

e. All other information that is required by the West Pennsboro Township Building Code Official prior to issuing a Building permit shall also be provided to the Township.

f. The Group Home shall maintain a similar appearance, condition, and character to the existing dwellings in the immediate vicinity of the Group Home.

g. Occupants of the Group Home facilities shall live as a single housekeeping unit.

h. Under no circumstances shall any uses qualifying for or falling under the definition of Halfway House be considered a Group Home.

3. *Community Residence, Halfway House.*

A dwelling occupied by not more than eight (8) transitionally institutionalized individuals that are inmates in prerelease status or inmates granted parole by the Pennsylvania Board of Probation and Parole who need specialized housing, treatment and/or counseling that provides supervised housing as an alternative to imprisonment, including but not limited to pre-release, work-release, probationary programs, or active criminal rehabilitation for the supervision of who have violated the law and who are sent to a halfway house upon release from, or in lieu of being sent to, a penal institution or juvenile detention center. The following use regulations shall apply.

a. A halfway house must be licensed where required by an appropriate government agency (agencies) and shall comply with all applicable rules and regulations of the licensing body (bodies). A copy of any required license must be delivered to the Township before beginning the use.

b. A halfway house shall be directly affiliated with a parent institution or organization that shall provide full-time supervision and administration to the residents of the house.

c. A common cooking and eating area must be provided; no cooking or dining facilities shall be provided in individual rooms or suites.

d. The residents of the halfway house shall reside on-premises to benefit from the services provided.

e. Property shall be served by public water and public sewer.

f. The halfway house shall not be located within 1,000 feet of any religious Structure, public recreation facility, school facility, daycare center, or public library.

g. The halfway house shall not be located with 1,000 feet of another halfway house.

h. A minimum of four hundred (400) square feet of outdoor Open Space shall be provided per each resident.

i. In addition to the Conditional Use review requirements specified under Section 1.17 of this Ordinance, each application shall be accompanied by a statement describing the following:

(1) The character of the halfway house;

(2) The policies and goals of the halfway house and the means proposed to accomplish those goals;

(3) The characteristics of the residents and the number of residents to be served;

(4) The operating methods and procedures to be used; and

(5) Any other facts relevant to the proposed operation of the halfway house.

j. Conditional Use granted for the halfway house shall be bound to the type and number of offenders listed on the application. Any change in the type or number of offenders being housed shall require a new Special Exception.

4. *Dwelling*.

One (1) or more rooms, with separate cooking and bath facilities, used or designed for use by one (1) or more persons maintaining a common household, with access directly from outdoors or through a common entrance. Dwelling units include permanent provisions for living, sleeping, eating, cooking and sanitation, thus providing a complete independent living arrangement. The following Dwelling types apply:

a. *Multi-Family Dwelling, Apartment*.

A Building containing three (3) or more Dwelling Units (i.e., Apartments) and which can be occupied by three (3) or more families. The following use regulations shall apply:

(1) Property shall be served by public water and public sewer.

(2) A landscaping plan for the entire tract shall be required. All areas of the development not covered by impervious surfaces shall be landscaped and maintained with native ground cover and plants. Existing vegetation is encouraged to be preserved for landscaping purposes.

(3) The minimum separation between multi-family buildings shall be twenty (20) feet.

(4) Indoor and outdoor areas of active or passive recreation shall be provided on the property and be maintained at all times. Playground equipment shall be inspected annually by a Certified Park Safety Inspector (CPSI) and a copy of the inspection report be provided to the Zoning Officer. All identified deficiencies shall be corrected within thirty (30) calendar days.

b. *Multi-Family Conversion*.

An existing Single-Family Detached Dwelling converted into three (3) or more individual, single-family apartment dwellings without substantially altering the exterior of the Building.

c. *Two Family Conversion.*

An existing Single-Family Detached Dwelling converted into a maximum of two (2) individual single-family dwelling units without substantially altering the exterior of the Building. The following use regulations shall apply:

(1) Each apartment unit created shall have a minimum livable area of eight hundred fifty (850) square feet and have its own kitchen and bathroom facilities inclusive of a shower and meet the applicable Township Building Code requirements.

(2) Off-street parking requirements shall be met according to Section 4.11 of this Ordinance.

d. *Single-Family Detached Dwelling*.

An individual Building designed and intended for use and occupancy as a residential Dwelling by one (1) individual or by one (1) single Family, and is not attached to any other Building by any means.

e. *Single-Family Semi-Detached, Duplex*.

One of two (2) Single-Family Dwellings arranged or designed as a Dwelling, located on abutting Lots and separated from each other by a solid partition—without openings—extending from the Basement floor to the highest point of the Roof along the dividing Lot line and separated from any other Building or Structures by space on all sides.

f. *Single-Family Semi-Attached, Townhouse*.

A Single-Family Dwelling unit in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each is separated from any other unit by one (1) or more vertical common fire-resistant walls. The following supplemental regulations shall apply:

(1) The maximum number of units that may be attached shall be eight (8).

5. *Hotel*.

A lodging establishment offering temporary lodging to the public consisting of eight (8) or more sleeping rooms with a bathroom for each room and providing daily room cleaning services and other guest services. In-room kitchen facilities may or may not be provided.

Includes apartment or residential hotels. Secondary service uses may also be provided, such as restaurants and meeting rooms. The following use regulations shall apply:

a. A private lobby shall be included.

b. Rooms shall be accessed from the interior of the Building, including from interior courtyards, lobbies, or halls.

6. *Manufactured Home*.

A Single-Family Dwelling constructed entirely in a controlled factory environment, built on a permanent chassis, and designed for use with or without a foundation when attached to required utilities. A Manufactured Home is constructed to meet the Federal Manufactured Home Construction and Safety Standards known as the "HUD code".

7. *Manufactured Home Community*.

A parcel or contiguous parcels of land that has been so designed and improved that it contains three (3) or more Manufactured Home spaces for the placement of Manufactured Homes thereon. A Manufactured Home Community shall be developed pursuant to Mobile Home Parks standards specified under the West Pennsboro Township Subdivision and Land Development Ordinance.

8. *Mixed-Use Building*.

A Mixed-Use Building integrates residential and non-residential uses within the same Building where non-residential Uses are permitted on the first floor of the Building and Dwelling Unit(s) are permitted on the upper floor(s). These Buildings shall comply with all standards for non-residential Buildings plus the following use regulations:

a. Uses permitted on first floor:

(1) Civic and Institutional Uses.

(2) Retail Uses.

(3) Services Uses.

b. Uses permitted on upper floor(s):

(1) Dwelling Unit(s).

9. *Motel*.

A Building or group of Buildings, whether detached or in connected units, used as individual sleeping or dwelling units, designed with separate entrances, and designed for year-round occupancy, primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" includes Buildings designated as tourist courts, tourist cabins, motor lodges and similar terms.

10. *Rooming House and Boarding House*.

A Single-Family Detached Dwelling arranged or used to provide overnight accommodations, with or without meals, for compensation by either transient or permanent

occupants, of between three (3) and six (6) roomers, wherein no dining facilities are maintained for the roomer and in which bathrooms may or may not be shared. The following use regulations shall apply.

a. Rooming House and Boarding House are distinguished from Hotels, Motels, and Bed and Breakfast facilities by the following characteristics:

(1) The length of stay is typically longer (typically a minimum of two weeks) for Rooming House and Boarding House;

(2) Roomers and boarders often have personal household appliances (such as toaster ovens and mini refrigerators);

(3) There is no daily room cleaning or other guest services provided for rooming or Boarding House; and

(4) The architectural character of a Rooming House or Boarding House Structure is primarily residential in nature.

b. The following use regulations shall apply to Rooming Houses and Boarding Houses:

(1) A common cooking and eating area must be provided; no cooking or dining facilities shall be provided in individual rooms or suites.

(2) Minimum period of residency for all boarders/roomers shall be one (1) week.

(3) Necessary permits for water supply and sanitary waste disposal must be obtained.

(4) The house must retain the character of a Single-Family Dwelling Unit.

(5) Off-Street parking shall be provided in accordance with the provisions specified under Section 4.11 of this Ordinance.

11. *Temporary Shelter Facility*.

A facility providing temporary, emergency housing, and social, health, and related services for families and/or individuals eighteen (18) years of age or older, who are without resources and access to shelter. The following regulations apply:

a. The maximum number of residents of the lodging shall be based upon a ratio of one (1) Person for every fifty (50) square feet of interior space devoted to sleeping area, not to exceed one hundred (100) residents total.

b. The facility shall have staffing on-site during all hours of operation.

c. At least one toilet and shower shall be provided for every fifteen (15) shelter beds.

d. New Temporary Shelter facilities shall not be located within two thousand (2,000) feet of another Temporary Shelter, Group Home, Residential Board and Care Home, Rooming House/Boarding House, Medical Clinic, Hospital, School, or Park.

e. The Temporary Shelter facility shall be open to the individuals it serves for twenty-four (24) hours per day, including the provision of an indoor waiting area for Use

by individuals when a portion of the facility is not open for operation. Lodging shall be provided on a reservation or referral basis so that clients shall not be required or allowed to queue for services outdoors.

f. All functions associated with the Temporary Shelter facility, except for children's play areas, outdoor recreation areas, and parking shall take place within the Building housing the shelter.

(B) *Civic and Institutional Uses*.

A category of Uses related to fulfilling the needs of day-to-day community life including assembly, public services, educational facilities, and Hospitals.

1. Assembly.

A facility specifically designed to host organized meetings, or programs to benefit, educate, entertain, or promote discourse amongst the residents of the community in a public or private setting. Includes such uses as community centers, auditoriums, civic centers, convention centers, performing arts facilities, public and/or private functional gatherings, and recreation centers.

a. *Assembly, General*. An assembly Use that occupies a Building with ten thousand (10,000) square feet or more GFA.

b. *Assembly, Neighborhood*. An assembly Use that occupies a Building with less than ten thousand (10,000) square feet of GFA.

c. The following supplemental use regulations shall apply:

(1) All Assembly uses shall have vehicular access to an Minor Arterial or Major Collector Street.

(2) All off-street parking areas shall be in the rear yard, set back at least ten (10) feet from the closest property line and screened from adjoining properties.

2. Cemetery.

Land used or intended to be used for the disposal or burial of the deceased, by cremation or in a grave, mausoleum, vault, columbarium, or other receptacle. A cemetery shall not include crematoria, which shall be considered operating in conjunction with a Funeral Home / Mortuary Use as provided for herein. The following use regulations shall apply:

a. All burial plots or structures shall be located at least twenty (20) feet from any property line or Street line.

b. Documentation shall be provided that water supplies of surrounding properties shall not be contaminated by burial activity within the proposed cemetery.

c. No burial plots or facilities are permitted in the 100-year flood zone.

d. The Applicant for a Cemetery Use shall confirm compliance with all state laws and regulations pertaining to burial practices and cemeteries.

3. *Hospital*.

A Pennsylvania Department of Health-licensed institution providing inpatient and outpatient medical care and health services to the community on a twenty-four (24) hour per day basis. These services may be located in one Building or clustered in several Buildings, one of which shall provide emergency services, and may include additional hospital-affiliated Accessory Uses such as laboratories, in- and out-patient facilities, training facilities, medical offices, staff sleeping quarters (but not full-time residences), food service, heliports, pharmacies, laundry facilities, florists, vendors of medical equipment, opticians, and gift shops. The following use regulations shall apply:

a. Minimum Lot Area shall be five (5) acres.

b. The property shall front on an Minor Arterial or Major Collector Street.

c. The property shall be serviced by public water and public sewer utilities.

d. A traffic impact study shall be prepared by a Professional Engineer, in accordance with the traffic impact study requirements specified in the West Pennsboro Subdivision Township Subdivision and Land Development Ordinance.

e. The institution shall submit a copy of its emergency operations plan (EOP) to the Township Emergency Management Agency or Coordinator. The EOP shall include detailed information regarding solid, medical, and hazardous materials and waste handling including a listing of all medical and hazardous materials and wastes used and generated on site and evidence indicating the disposal of all materials and wastes shall be accomplished in a manner that compiles with State and Federal regulations.

4. *House of Worship*.

Any Building used for the purposes by an established religious organization where such Building is primarily intended to be used as a place of worship. The term includes, but is not necessarily limited to church, temple, synagogue, and mosque. The definition includes supporting uses including rectories, convents, and church-related educational, day care, and recreational facilities, provided that such uses are accessory and located upon the same Lot or directly adjacent to a Lot containing a House of Worship use. The following use regulations shall apply:

a. All off-street parking areas shall be in the rear yard, set back at least ten (10) feet from the closest property line and screened from adjoining properties.

b. All residential uses associated with a House of Worship shall be governed by the location, Height and bulk standards imposed upon other residences where permitted, except that any number of persons of a convent and/or seminary may share group quarters.

5. *Library/Museum*.

A use open to the general public that houses educational, cultural, artistic, or Historic information, resources, and exhibits. Includes such uses as libraries, museums, aquariums, planetariums, and exhibitions. May also include such accessory uses including, but not limited to, theater space, food service, gift shop, and meeting rooms.

6. *Long-Term / Continuum of Care Facility*.

A Pennsylvania Department of Health licensed facility that provides rehabilitative, restorative, and/or ongoing skilled nursing care to patients and residents in need of assistance with activities of daily living. Long-term care facilities include nursing homes, rehabilitation facilities, in-patient behavioral health facilities, and long-term chronic care hospitals.

7. *Police/Fire/EMS*.

A use from which public safety, and emergency operations and training services are delivered and may include storage space for emergency service vehicles. Training rooms, locker rooms, kitchens, and limited overnight accommodations may also be included within the facility.

8. *School, Post-Secondary Education*.

Public or private educational facilities providing for post-secondary education that grants associates, bachelors, masters, and/or doctoral degrees. Facilities may be on a larger-scale campus and include significant traffic and parking. May include gymnasium, theater, cafeteria, offices, classrooms, athletic facilities, and athletic fields. Does not include Stadium/Arena but may include a Stadium/Arena as an Accessory Use.

9. *School, Pre-K, K-12, and Vocational Education*.

Public or private educational facilities for pre-school, kindergarten-12th grade education, including vocational educational training. Facilities may be on a larger-scale campus and include significant traffic and parking. May include gymnasium, theater, cafeteria, offices, classrooms, athletic facilities, and athletic fields. Use does not include Stadium/Arena but may include a Stadium/Arena as an Accessory Use. The following use regulations shall apply:

a. The Applicant shall meet all requirements of the Commonwealth of Pennsylvania Code, Title 25, Ordinance 171, Schools and State and Federal requirements for the construction, remodeling or alteration, or conversion of an existing property to an educational facility.

b. The use shall have vehicular access to an Minor Arterial or Major Collector Street.

(C) *Agriculture, Forestry, and Open Space Uses*.

A category of Uses generally applicable to the use of the land and may not require Buildings or other facilities uses for agriculture, active or passive, public, or private, outdoor recreation, education, or entertainment.

1. *Agricultural Operation*.

Any use of land or structures for an enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock, and livestock products and in the production, harvesting, and preparation for market or use of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products, or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological

development within the agricultural industry. The term includes: (1) any farmstead land on the tract; (2) a woodlot; and (3) any land which is rented to another Person and used for the purpose of producing an Agricultural Commodity. Agricultural Commodity includes any of the following transported or intended to be transported in commerce: (1) Agricultural, aquacultural, horticultural, floricultural, viticultural or dairy products. (2) Livestock and the products of livestock. (3) Ranch-raised fur-bearing animals and the products of ranch-raised fur- bearing animals. (4) The products of poultry or bee raising. (5) Forestry and forestry products. (6) Any products raised or produced on farms intended for human consumption and the processed or manufactured products of such products intended for human consumption.

2. *Confined Animal Feeding Operation (CAFO)*.

An Agricultural Operation with either more than one thousand (1,000) animal units, or operations with three hundred one (301) to one thousand (1,000) animal units which have the potential to discharge to surface waters. The following supplemental use regulations apply:

a. All CAFOs must meet obtain the requisite PA DEP permitting standards pertaining to CAFOs.

3. *Confined Animal Operation (CAO)*.

An Agricultural Operation with eight (8) or more animal equivalent units (AEUs) where the animal density exceeds two (2) AEUs per acre on an annualized basis.

a. All CAFOs must meet obtain the requisite PA DEP permitting standards pertaining to CAFOs.

4. *Commercial Stockyards and/or Feedlots*.

An Agricultural Operation that collects and temporarily stores livestock. The following use regulations shall apply:

a. All live animals held outside shall be within secure holding pens or runways.

b. No exterior animal holding pens and/or areas devoted to loading/unloading of animals shall be located within two hundred (200) feet of any property line nor five hundred (500) feet of any land within residential zone.

c. All animal holding pens and/or areas used for the loading/unloading of animals shall be screened from all adjoining properties and shall include a minimum fifty (50) foot wide landscape strip.

d. All access drives onto the site shall be provided in a dust and mud-fee manner for a distance of at least two hundred (200) feet from the Street Right-of-Way line. The first fifty (50) of the access drive beginning with its connection with the Street Right-of-Way line shall be paved.

e. The Owner and/or operator shall be responsible for removing any mud from public roads caused by persons traveling to and from the site.

f. Adequate off-street parking and loading areas shall be provided. No parking or loading/unloading shall be permitted on or along any public road.

g. The Applicant shall furnish evidence of any needed Nutrient Management Plan approved by PA DEP and/or the Cumberland County Conservation District.

h. All facilities shall be designed and operated in strict compliance with all applicable State and Federal laws and regulations.

i. A traffic impact study shall be prepared by a Professional Engineer, in accordance with the traffic impact study requirements specified in the West Pennsboro Subdivision Township Subdivision and Land Development Ordinance.

5. *Equine Activities*.

Includes the following activities as prescribed by Pennsylvania's Equine Activity Immunity Act, Act of Dec. 22, 2005, P.L. 472, No. 93:

a. Equine training, teaching, riding instruction, shows, fairs, parades, competitions or performances which involve breeds of equine participating in an activity. This includes, but not be limited to, dressage, hunter and jumper shows, Grand Prix jumping, three-day eventing, combined training, rodeos, reining, cutting, team penning and sorting, driving, pulling, barrel racing, steeple chasing, English and Western performance riding and endurance and nonendurance trail riding. This paragraph shall also include Western games, gymkhana, hunting, packing, therapeutic riding and driving and recreational riding.

b. Equine or rider and driver training, teaching, instruction, or evaluation. This paragraph includes clinics, seminars and demonstrations.

c. Boarding equines, including normal daily care.

d. Recreational rides or drives which involve riding or other activity involving the use of an equine.

e. Placing, removing, or replacing of horseshoes or the trimming of an equine's hooves.

f. The following use regulations apply to all Equine Activities:

(1) *Minimum Lot Size*. One (1) acre.

(2) *Events*. Special events, including training, where horse trailers or similar vehicles shall be parked in the Right-of-Way shall be regulated by Temporary Use Zoning Permit issued by the Zoning Officer, and shall be subject to an approved parking and staging plan.

(3) *Fences*. All turnouts shall be enclosed by a fence that is adequately sized to safely contain the animals..

6. *Forestry Operation*.

The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting, and selling trees for commercial purposes, which does not involve any land development. The following use regulations shall apply:

a. To encourage maintenance and management of forested or wooded open space and promote the conduct of forestry as a sound and economically viable use of forested land and forestry activities, including, but not limited to timber harvesting, and to be in compliance with the PA MPC, as amended, forestry shall be a permitted Use by right in all zoning districts. The following standards apply to all timber harvesting within the Township. These provisions do not apply to the cutting of trees for the personal use of the landowner or for pre-commercial timber stand improvement.

b. *Policy and Purpose*. To conserve forested open space and the environmental and economic benefits they provide, it is the policy of the Township to encourage the owners of forestland to continue to use their land for forestry purposes, including the long-term production of timber, recreation, wildlife, and amenity values. The timber harvesting regulations are intended to further this policy by promoting good forest stewardship, protecting the rights of adjoining property owners, minimizing the potential for adverse environmental impacts, and avoiding unreasonable and unnecessary restrictions on the right to practice forestry.

c. *Permit Required, Notification, Insurance and Surety*.

(1) A zoning permit shall be obtained from the Township to conduct logging or timber harvesting activities.

(2) This section shall not apply to:

(a) Work performed on clearing subdivision roads and Rights-of-Way approved by the Board of Supervisors of the Township.

(b) Individual Lots affected by the logging operation of less than one (1) acre in size, provided that the entire logging or timber-harvesting operation does not exceed a total of one (1) acre.

(3) The Township shall be notified in writing before any logging or timber harvesting operation begins so that the Township may determine if other Township permits or approvals are required for the particular operation. Should a logging and timber harvesting permit be required for the particular operation, the Township shall be notified at the following times:

(a) Seven (7) business days prior to starting the operation.

(b) Five (5) business days prior to terminating the operation.

d. *Submission Requirements for Zoning Permit Application*. The logging and timber harvesting application shall be filed with the Township and shall contain the following:

(1) A project narrative/description containing the following information:

(a) Purpose of the proposed operation including range and species of trees selected for harvesting.

(b) Total land area involved in the proposed logging operation shall be shown on a survey plan prepared by a Professional Land Surveyor.

(c) An Erosion and Sedimentation Control Plan prepared in accordance with 25 Pennsylvania Code, PA Ordinance 102 regulations.

(d) Written description outlining the revegetation of the landing area, skid trails, harvest area and any other disturbance locations.

(e) Stormwater control measures to be utilized.

(f) Stream crossings and wetland protection measures to be utilized.

(g) Provide proof of written notification to each adjacent property owner of the proposed logging or timber-harvesting operation with statement that the application is available to be viewed in the Township offices. A copy of such notification letter shall be included with the Applicant's submission.

(h) A narrative indicating that the logging operator shall address and comply with the requirements of all applicable commonwealth laws and regulations, including, but not limited to the Erosion and Sedimentation Control Plan as required under subparagraph (c) above.

e. *Logging Operation Practices and Regulations*.

(1) No logging operation or removal of products shall take place between the hours of 7:00 PM and 8:00 AM EST or any time on Sundays or legal holidays.

(2) Any logging operation in existence at the time of the enactment of this article may continue without interruption, provided that application is made within thirty (30) days of said enactment for a zoning permit under the provisions of this article and that such permit is granted.

(3) The maximum term of any permit issued pursuant to this article shall be for six (6) months. However, since the logging operation may be adversely affected or delayed by unusual circumstances of weather or other occurrences, one additional six (6) month extension, after payment of a renewal fee equal to the initial permit fee, may be granted by the Township.

(4) Trees falling on adjacent properties as a result of a logging or timber harvesting operation shall immediately be returned to the landowner's property, who shall be responsible for any damage, cost, or restoration to the affected adjacent property.

(5) Timbering or logging activity shall not be performed within ten (10) feet of any unmarked property line which has not been surveyed to accurately demonstrate location of trees in relationship to the property boundaries.

(6) The Township shall have authority to order the suspension of any logging or timber harvesting operation if activities are not in compliance with any

federal, state, or local municipal ordinance or regulation, or in violation of the permit requirements and conditions.

(7) Felling or skidding on or across any public road or Right-of-Way is prohibited without the express written consent of the Township or the Pennsylvania Department of Transportation, whichever is responsible for maintenance of such public road or Right-of-Way.

(8) No tops or slash shall be left on any public or private roadway or pedestrian trail providing access to adjoining residential property.

(9) No tops or slash shall be left on or across the boundary of any property adjoining the logging or timber harvesting operation without the written consent of the Owner thereof.

(10) All litter resulting from a logging or timber-harvesting operation shall be removed from the site before the operator vacates it.

(11) Upon completion of the logging or timber harvesting operation, all disturbed areas, including, but not limited to, the landing area(s), skid trails and any disturbed areas shall be revegetated pursuant to the Erosion and Sedimentation Control Plans, the Stormwater Management Plans and the permit requirements.

f. *Road Maintenance, Protection and Bonding*.

(1) The Township shall have the authority to suspend any logging or timber harvesting operation should the Township determine that conditions of the logging or timber harvesting operation shall cause or likely make damage to a Township-maintained roadway.

(2) The repair of roads, bridges and culverts damaged as a result of a logging or timber harvesting operation shall be repaired to the satisfaction of the Township.

(3) The permittee, logging operator, or a designated representative shall not create a new or utilize an existing access onto a state-maintained roadway without first showing proof that the access is permitted by the Pennsylvania Department of Transportation.

(4) The permittee, logging operator, or a designated representative shall not create a new or utilize an existing access onto a Township-maintained roadway without first obtaining permission from the Township for utilizing said access.

(5) Any disturbance along a Township-maintained roadway to create a new or improve upon an existing access shall be reconstructed back into its original condition as it was prior to the commencement of the logging or timber harvesting operation.

g. *Waivers and Enforcement*. The Township's Zoning Officer (or equivalent otherwise titled Township Official), or his/her designee, may enter the site of any logging or timber harvesting operation before, during, or after active logging to:

(1) Review the logging plan or any other required documents for compliance with this article; and

(2) Inspect the operation for compliance with the logging plan and other on-site requirements of these regulations.

h. *Violations, Penalties and Remedies*.

(1) *Enforcement Remedies*.

(a) Upon finding that a timber harvesting operation is in violation of any provision of the article, the Township shall issue the logging operator and the landowner a written Notice of Violation, in accordance with the provisions of this Ordinance regarding enforcement notices, describing each violation and specifying a date by which corrective action must be taken.

(b) The Township may order the immediate suspension of any logging or timber-harvesting operation and may institute any appropriate action to prevent, restrain, correct, or abate the violation of this article (as permitted by 53 P.S. § 10617) upon finding that (1) corrective action has not been taken by the date specified in a notice of violation; (2) the operation is proceeding without a logging plan; or (3) the operation is causing an immediate environmental risk, hazard or pollution concern.

(c) Suspension orders shall be in writing, shall be issued to the logging operator and the landowner, and shall remain in effect until the logging operation is brought into compliance with this article or other applicable statutes or regulations.

(2) *Penalties*. See Section 1.13 Violations and Penalties of this Ordinance.

7. Golf Course and Driving Ranges.

A golf course is an area of land laid out for golf with a series of nine (9) or eighteen (18) holes each including tee, fairway, and putting green and often one or more natural or artificial hazards. Golf courses may include a driving range and clubhouse providing the services and amenities specified below. The following use regulations shall apply:

a. In no case shall the golf course design permit or encourage a golf ball to be driven across any Building, Building lot, parking lot, street, access drive, or driveway.

b. *Golf Paths*. Golf paths shall be graded so as to discharge storm water runoff. Surface conditions of paths shall be adequately protected from an exposed soil condition.

c. The golf course design shall minimize golf path crossings of streets, access drives and driveways. Easily identifiable golf paths must be provided for crossings of streets, access drives or driveways. The golf course design shall both discourage random crossing and require use of the golf path crossings of streets, access drives and driveways. Golf path crossings shall conform to each of the following:

(1) Each crossing shall be perpendicular to the traffic movements.

(2) Only one (1) street, access drive or driveway may be crossed at each location.

(3) No crossing is permitted between within seventy-five (75) feet from the Cartway edge of a street, access drive or driveway intersection.

(4) The crossing must be provided with a clear sight triangle of seventy-five (75) feet, measured along the street, access drive or driveway centerline and the golf path centerline, to a location on the centerline of the golf path, five (5) feet from the edge of the roadway. No permanent obstruction over thirty (30) inches high shall be placed within this area.

(5) *Sight Distance*. Golf path intersections shall be designed to provide adequate sight distance with regard to both horizontal and vertical alignment. The required sight distance shall be governed by the applicable standards specified in the West Pennsboro Township Subdivision and Land Development Ordinance.

(6) The golf cart path shall not exceed a slope of eight (8) percent within twenty-five (25) feet of the Cartway crossing.

(7) Golf path crossings shall be signed, warning motorists and pedestrians and golfers. The surface of the golf path shall be brightly painted with angle stripes.

(8) Golf path crossings of an Minor Arterial or Major Collector Street shall consist of a tunnel or bridge that is not located at street grade. The golf course design shall both prohibit on-grade crossing of an Minor Arterial or Major Collector Street and require the use of the tunnel. The construction of the Minor Arterial or Major Collector Street crossing of the tunnel shall comply with PennDOT standards.

d. All golf course buildings shall be set back seventy-five (75) feet from any adjoining roads and one hundred (100) feet from adjoining residential structures or parcels.

e. Golf courses may include the following accessory uses, provided such uses are reasonably sized, and located so as to provide incidental service to the golf course employees and users:

(1) Clubhouse, which may consist of:

(a) Restaurant, snack bar, lounge, and banquet facilities.

(b) Locker and restrooms.

(c) Pro shop.

(d) Administrative offices.

(e) Golf cart and maintenance equipment storage and service facilities.

(f) Fitness and health equipment, including workout machines, spas, whirlpools, saunas, and steam rooms.

(g) Game rooms, including card tables, billiards, ping-pong, and other similar table games.

(h) Baby-sitting rooms and connected fence-enclosed play lots.

(2) Accessory recreation amenities located outside of a Building, including:

(a) Driving range, provided that no lighting is utilized.

(b) Practice putting greens.

(c) Swimming pools.

(d) Tennis, platform tennis, handball, racquetball, squash, volleyball, and badminton courts.

(e) Bocce ball, croquet, shuffleboard, quoits, horseshoe pits, and washers courses.

(f) Picnic pavilions, picnic tables, park benches, and barbecue pits.

(g) Playground equipment and play lot games, including 4-square, dodgeball, tetherball, and hopscotch.

(3) Freestanding maintenance equipment and supply buildings and storage yards.

f. All outdoor storage of maintenance equipment and/or golf carts shall be set back at least one hundred (100) feet and screened from adjoining residential structures and roads.

g. The Applicant shall submit an analysis of raw water needs (groundwater or surface water) from either private or public sources, indicating quantity of water required. If the source is from a municipal system, the Applicant shall submit documentation that the municipal system will supply the water needed.

h. If the facility is to rely upon non-public sources of water, a water feasibility study will be provided to enable the municipality to evaluate the impact of the proposed development on the groundwater supply and on existing wells. The purpose of the study will be to determine if there is an adequate supply of water for the proposed development and to estimate the impact of the new development on existing wells in the vicinity. The water feasibility shall be reviewed by the municipal engineer.

i. A water system which does not provide an adequate supply of water for the proposed development, considering both quantity and quality, or does not provide for adequate groundwater recharge, considering the water withdrawn by the proposed development, shall not be approved by the Township.

j. A water feasibility study shall include the following information:

(1) Calculations of the projected water needs.

(2) A geologic map of the area with a radius of at least one mile from the site.

(3) The location of all existing and proposed wells within one thousand (1,000) feet of the site, with a notation of the capacity of all high-yield wells.

(4) The location of all existing on-lot sewage disposal systems within one thousand (1,000) feet of the site.

(5) The location of all streams within one thousand (1,000) feet of the site and all known point sources of pollution.

(6) Based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined.

(7) A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams and the groundwater table.

(8) A statement of the qualifications and the signature(s) of the person(s) preparing the study.

k. A traffic impact study shall be prepared by a Professional Engineer, in accordance with the traffic impact study requirements specified in the West Pennsboro Subdivision Township Subdivision and Land Development Ordinance.

8. *Nature Preserve*.

Areas in which human activities are very limited and where the natural environment is protected from man-made changes by a conservancy or conservation easement. The nature preserve includes woodland preservation, game preserves, and wildlife sanctuaries.

9. *Recreation Facility, Commercial or Private*.

A privately-owned and operated indoor and/or outdoor facility used for arcade games, swimming, bowling, tennis club, rink, track, Alley, cage, course, field throwing, or other similar types of uses in which the patrons pay a fee and/or are members to participate in or view a recreational or entertainment physical activity, including activities which include motorized vehicles and the like. The use excludes Golf Courses and Driving Ranges as separately defined herein this Ordinance. The following use regulations shall apply:

a. The use shall have direct access to an Minor Arterial or Major Collector Street.

b. A traffic impact study shall be prepared by a Professional Engineer, in accordance with the traffic impact study requirements specified in the West Pennsboro Subdivision Township Subdivision and Land Development Ordinance.

c. The use shall not be located within one hundred (100) feet of any residentially zoned property and shall be screened in accordance with Section 4.02 of this Ordinance.

10. *Recreation Facility, Public*.

A facility owned by the Township or a public or quasi-public body designed for the preservation of historic or scenic property or recreational use by the general public. Public recreation facilities include Open Space and parks for public access, public parks, public gathering spaces, and Township-owned recreation areas and playgrounds free of charge.

11. *Shooting Range, Indoor*.

A commercial business or private club (excluding individual private property owners) where for a fee firearms and other projectile-type weapons (e.g., guns, rifles, shotguns, pistols, air guns, archery crossbows, etc.) can be shot indoors for recreation, competition, skill development, training, or any combination thereof. May include Retail Sales. The following use regulations shall apply:

a. The facility shall not be located within one hundred (100) feet of any residentially zoned property.

b. The facility shall be designed according to the indoor range design criteria specified in the U.S. Department of Energy Office of Health, Safety and Security's "Range Design Criteria" publication dated 6/4/2012. These design criteria shall be the minimum criteria used to design a commercially owned and operated indoor shooting range.

12. *Shooting Range, Outdoor*.

A commercial business or private club (excluding individual private property owners) where for a fee firearms and other projectile-type weapons (e.g., guns, rifles, shotguns, pistols, air guns, archery crossbows, etc.) can be shot outdoors for recreation, competition, skill development, training, or any combination thereof. The following use regulations shall apply:

a. *Lot Area*. Minimum Lot Area shall be ten (10) acres.

b. *Location*.

(1) No part of a shooting range, to include the safety fan, shall be located within one-quarter (1/4) mile of any residential Structure.

(2) Adjacent areas shall be predominantly undeveloped, and the range area shall be at least two hundred (200) feet from any property or Street Right-of-Way line. The Use shall also be located at least five hundred (500) feet from any existing residential Dwelling.

c. *Lot Width*. Minimum Lot width shall be three hundred (300) feet.

d. *Design*.

(1) The facility shall be designed according to the Outdoor Range Design criteria specified in the U.S. Department of Energy Office of Health, Safety and Security's "Range Design Criteria" publication dated 6/4/2012. These design criteria shall be the minimum criteria used to design a commercially owned and operated outdoor shooting range.

(2) A Safety Fan shall be provided for each firing range. The Safety Fan shall include the area necessary to contain all projectiles, including direct fire and ricochet. The Safety Fan configuration shall be based upon the trajectory of the bullet and the design effectiveness of berms, overhead baffles, or other safety barriers to contain projectiles to the Safety Fan.

(3) The entire firing range area, including the entire Safety Fan, shall be enclosed with a six foot (6') high non-climbable fence to prevent unauthorized entry into the area. Range caution Signs with eight (8) inch tall, red letters on a white background shall be posted at a maximum of one hundred (100) foot intervals around the range perimeter. Signs shall read "SHOOTING RANGE AREA. KEEP OUT!"

(3) Range flags shall be displayed during all shooting activities. Range flags shall be located in a manner visible from entrance drives, target areas, range floor, and the perimeter of the Safety Fan.

(4) All surfaces located within the Safety Fan, including the backstop, overhead baffles, berms, and range floor, shall be free of hardened surfaces, such as rocks or other ricochet-producing materials.

(5) All shooting range facilities, including Buildings, parking, firing range, and Safety Fan shall be set back a minimum of one hundred (100) feet from the property line and Street Right-of-Way.

(6) The firing range shall be free of gravel and other hard surface materials and be adequately drained according to the stormwater management standards specified in the West Pennsboro Township Subdivision and Land Development Ordinance.

(7) Adult supervision shall be provided for children under sixteen (16) years of age.

e. *Shooting Range Operations*.

(1) Shall not damage the health, safety or welfare of the Township or its residents and property owners.

(2) Shall comply with all applicable State and local laws, rules, and regulations regarding the discharge of a firearm.

(3) Shall limit the storage of ammunition to only that utilized for each day's activity, and in no event shall ammunition remain on the property for greater than twenty-four (24) hours. The storage of live ammunition may only occur indoors in an area secured from general access.

(4) Shall limit the number of active shooters to the number of firing points or stations identified on the development plan.

(5) Shall limit firing to the hours between two (2) hours after dawn and one (1) hour preceding dusk Monday through Saturday, and from 12 noon prevailing time until one (1) hour preceding dusk on Sundays.

(6) Alcoholic beverages are prohibited on the range.

(7) Only targets mounted on target posts shall be permitted. No targets of any kind shall be set directly on the ground.

(D) *Retail Uses*.

A category of Uses involving the sale of goods and provision of services to the public for personal or household consumption. Visibility and accessibility are important to these uses, as most businesses typically rely heavily on walk-in customers or clients and rarely utilize scheduled appointments.

1. *Commercial Equipment and Supply*.

A Use involving the large-scale sale of goods to residents or businesses within the region. The goods or merchandise sold may be of the same type or a variety of types and typically occupy a space greater than five thousand (5,000) square feet. This Use may include bulk sales and typically involves frequent commercial vehicle and consumer traffic. This Use is primarily located indoors but may also include accessory outdoor storage of goods. This includes such uses as those listed in Table 3.02, Typical Commercial Equipment and Supply Uses. The following supplemental regulations shall apply:

a. The use shall have a minimum of two (2) points of ingress/egress onto an Minor Arterial or Major Collector Street.

Table 3.02, Typical Commercial Equipment and Supply Uses.

Bottled Gas (such as propane) Sales and Supply
Heating & Air Conditioning Supply, Sales and Service
Building Materials, Hardware, and Lumber Supply Machine Sales and Rental
Cabinet Supply (display only)
Electrical Supply
Plumbing Sales and Service
Farm Equipment and Supply Wholesale Trade

2. *Convenience Store*.

Any retail store with a wide mix of goods typically used daily, including household goods, prepared and made-to-order foods, personal health items, cosmetics, motor vehicle products and fuel dispensing, candy, and tobacco products. The following supplemental regulations shall apply:

a. The use shall have a minimum of two (2) points of ingress/egress onto an Minor Arterial or Major Collector Street.

b. Electric Vehicle Charging Stations may be provided as an Accessory Use as provided for herein under Section 3.04 of this Ordinance.

3. *Drive Through Only Facility*.

A facility or Structure designed to allow drivers to remain in their vehicles during an activity on the site. Drive-through only facilities serve as the principal use of the site. The following supplemental regulations apply:

a. No indoor or outdoor seating is permitted.

b. No electric vehicle charging stations are permitted.

c. All dimensions of the parking spaces on the Lot shall meet the minimum requirements of the Township Code.

d. No more than one drive through only facility may be permitted per Lot.

e. A maximum of two (2) drive-through lanes may be permitted per serving window or counter.

f. *Site Access*.

(1) Access driveways to drive through only facilities shall be located as far away as possible from Street intersections and corners and designed in accordance with the applicable Street design standards specified under The West Pennsboro Township Subdivision and Land Development Ordinance.

(2) The number of access driveways into a site shall be minimized to reduce conflicts between turning vehicles and other users of the Street, reduce curb cuts and interruptions to the sidewalk.

(3) Vehicle queuing lanes shall be separated from all aisles, shall not result in additional curb cuts along the same Street frontage and shall not have direct ingress and egress from any Street.

(4) Vehicle queuing lanes shall not be directly accessible from a Street.

(5) Vehicle queuing lanes shall not obstruct or interfere with parking spaces, pedestrian aisles or walkways and loading or service areas.

g. *Parking*.

(1) No more than one (1) parking space per employee per shift may be permitted.

(2) Parking areas where possible shall avoid having pedestrians cross driveways or vehicle queuing lanes to enter the Building.

(3) The parking areas shall not conflict with the ingress and egress of the vehicle queuing lanes. This can be achieved by locating the parking areas away from the vehicle queuing lanes or clearly delineating the parking areas with appropriate barriers and signage.

(4) Larger parking areas shall be separated into smaller well-defined sections, using a combination of hard and soft landscaping to avoid large, paved surfaces in parking areas.

(5) The use of Impervious Surfaces for paved areas in the parking Lot shall be minimized. The use of Pervious Surfaces in combination with soft landscaped areas to contribute to the appearance and environmental sustainability of the site is encouraged.

4. *General Retail*.

A retail Use with a Gross Floor Area (GFA) of three thousand (3,000) square feet or greater and outdoor sales limited to no more than twenty (25) percent of the indoor GFA of the retail Use. General retail includes such Uses as those listed in Table 3.03, Typical Retail Uses. The following supplemental regulations shall apply:

a. The use shall have a minimum of two (2) points of ingress/egress onto an Minor Arterial or Major Collector Street.

Table 3.03, Typical Retail Uses.

Typical Neighborhood Retail Uses	Typical General Retail Use
Antique Shop Apparel, Shoes, and/or Accessory Store Small Appliance Store Art Gallery and Sales Art and/or Education Supplies Bakery with no distribution Beer/Wine/Liquor Sales Bicycle and Accessory Sales Book &/or Video Store Camera and Photo Supply Store China and/or Glassware Cigar, Cigarettes, Tobacco Shop Coin and/or Philatelic Store Craft Store Discount Variety Store (e.g., dollar stores or five and dime stores) Drug and/or Cosmetics Store, except Medical Marijuana Dispensary Electronics Sales Fabric and Sewing Supply Store Florist Framing Shop Furrier Shop, no storage Garden Supply and/or Nursery Gift, Novelty and Souvenir Shop Hardware Store Home Furnishings and Accessories Jewelry and/or Gem Store Luggage and/or Leather Goods Magazine and/or Newspaper Store Meat Market Music and/or Musical Instruments Neighborhood Food Store Office Machines and Supply	All "Typical Neighborhood Retail Uses" 3,000 sf and over Appliance Sales Automotive Supply (no service) Computer Software Sales and Leasing Department Store Firearms Sales and Service Medical Supply Store Motorcycle and Motor Scooter Sales, limited outdoor display Nursery Outdoor Recreation Equipment

Optical Goods Paint and Wallpaper Store Pet and/or Pet Supplies Shop Secondhand sales of any item permitted for sale new Specialty Food (Candy, Fish, Produce, Prepared Foods, etc.) Sporting Goods Stationery and Paper Store Toy and/or Baby Supplies	

5. *Grocery Store*.

Any store commonly known as a supermarket, food store, or grocery store, with at least sixty (60) percent of gross square footage dedicated to the retail sale of fresh and/or frozen meat, seafood, poultry, fruits, and vegetables; and dairy and bakery products.

6. *Medical Marijuana Dispensary*.

A Person, including a natural Person, corporation, partnership, association, trustor other entity, or any combination thereof, which holds a permit issued by the Pennsylvania Department of Health to dispense medical marijuana pursuant to Pennsylvania's Medical Marijuana Act, Act of April 17, 2016, P.L. 84, No. 16. The following use regulation shall apply:

a. A dispensary shall meet the same municipal zoning and land use requirements as other manufacturing, processing and production facilities that are located in the same zoning district.

7. *Neighborhood Retail*.

A retail Use with a GFA of less than three thousand (3,000) square feet and outdoor sales limited to no more than ten (10) percent of the indoor GFA of the retail Use. Neighborhood retail includes such uses as those listed in Table 3.03, Typical Retail Uses. In the event a specific Neighborhood Retail Use is not identified in Table 3.03, the Zoning Officer shall have the authority to review the proposed Use and the Applicant shall submit to the Zoning Officer such additional information as the Zoning Officer deems necessary to render an official Determination under this Ordinance.

8. *Outdoor Sales Lot*.

A Use involving the sale of goods or merchandise to businesses and/or the general public, where the majority of the goods are stored or displayed outdoors. Outdoor Sales Lot include such uses as: the sale and rental of automobiles, trucks, trailers, boats, and recreational vehicles; and the outdoor sale of Building materials, landscape materials, and garden supplies. The following use regulations shall apply:

a. Any site used for the sale, parking and/or storage of more than one hundred fifty (150) vehicles shall front solely upon an Minor Arterial or Major Collector Street.

b. All lighting shall be designed and constructed so as not to cast glare on adjoining road and/or properties.

c. The sales area shall be considered to be that of the smallest rectangle, or other regular geometric shape which encompasses all display areas, stands, booths, tables, or stalls, plus any adjoining aisles and/or walkways from which consumers can inspect items for sale.

d. The retail sales area shall be set back at least fifty (50) feet from all residential zoning district or residential use.

e. The servicing, reconditioning, demolition, or junking of vehicles is prohibited.

f. All Outdoor Sales Lots shall comply with applicable state laws including 49 Pa. Code § 19.19. Standards of Licensure for Retail or Public Auction.

(E) *Service Uses*.

A category of Uses that provide patrons services and limited retail products related to those services.

1. *Adult Day Care Center*.

Any Premises operated for profit in which Adult Day Care is simultaneously provided for four (4) or more adults who are not relatives of the owner/operator of the center. Adult Day Care is care given for part of the twenty-four (24) hour day to adults requiring assistance to meet personal needs and who, because of physical or mental infirmity, cannot themselves meet these needs, but who do not require nursing care.

2. *Assisted Living Facility*.

Any Premises in which food, shelter, assisted living services, assistance or supervision and supplemental health care services are provided for a period exceeding twenty-four (24) hours for four (4) or more adults who are not relatives of the operator, who require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation from the facility in the event of an emergency or medication prescribed for self-administration.

3. *Automobile Car Wash*.

A Building or Structure with accompanying open-air stations designed and used primarily for the automatic, semiautomatic, or hand washing, drying, polishing, and vacuuming of automobiles. This Use does not include Truck Wash. The following use regulations shall apply:

a. Car washes shall include water filtration and reclamation systems to remove contaminants and pollutants and reuse the water for subsequent washes and rinses, reducing water consumption and environmental impact.

b. Centralized sewage disposal facilities and centralized water supply facilities shall be provided. Filtration of wastewater shall be conducted before discharge to a sanitary sewer system.

c. A National Pollutant Discharge Elimination System (NPDES) permit from the Pennsylvania Department of Environmental Protection is required to discharge wastewater directly into a surface water body or to a storm sewer that discharges to a surface water body.

d. Residual sludge shall be disposed of in accordance with the Pennsylvania Department of Environmental Protection requirements and standards.

e. On-Lot traffic circulation channels and parking areas shall be clearly marked.

f. Adequate provision shall be made for the proper and convenient disposal of refuse.

g. To prevent hazards from ice, water from the car wash operation shall not flow or be blown onto sidewalks or Streets.

h. *Noise*. Car washes shall have a maximum noise level of 55-60 dBA between 7:00 AM – 10:00 PM and 45-50 dBA between 10:00 PM and 7:00 AM prevailing time.

4. *Automobile Repair and Towing Service*.

A business involving the repair and/or towing services for automobile vehicles. Vehicle car wash operations may also be included and when provided must also comply with the Automobile Car Wash standards specified in Subparagraph 3. above. The following use regulations shall apply:

a. *Permitted Types of Repair Service*. Repairs include minor and heavy repair services including engine rebuilding, bodywork, repair and replacement of cooling, electrical, fuel and exhaust systems, brake adjustments, relining and repairs, wheel alignment and balancing, suspension systems, and other mechanical and non-mechanical elements of Vehicles.

b. *Outdoor Storage*. Disabled or inoperable Vehicles and those awaiting pick-up may be stored outdoors if all the following occur:

(1) No more than fifteen (15) Vehicles shall be stored on the property.

(2) The designated outdoor storage area shall be located in the Rear Yard and screened from view of the front Lot line. The screening shall be a minimum of eight (8) feet high and shall be a galvanized chain link fence with privacy slats.

(3) The designated outdoor storage area shall also be screened from adjacent uses pursuant to the Screening requirements specified under Section 4.02 of this Ordinance.

(4) The Vehicles shall be stored in the designated outdoor storage area and not in the public right of way or in a part of the Lot not specifically designated as an off-street parking space.

(5) The Applicant shall furnish evidence that the storage and disposal of materials shall be accomplished in a manner that complies with all applicable state and federal regulations.

c. *Outdoor Activities*.

(1) All repairs or washing activities shall occur inside a Building.

(2) Temporary outdoor display of seasonal items, such as windshield wiper fluid or salt, is permitted during business hours adjacent to the principal Building.

d. *Environmental Controls*.

(1) Car washes shall include a water reclamation system for the purpose of recycling water.

(2) Centralized sewage disposal facilities and centralized water supply facilities shall be provided. Filtration of wastewater shall be conducted before discharge to a sanitary sewer system.

(3) A National Pollutant Discharge Elimination System (NPDES) permit from the Pennsylvania Department of Environmental Protection is required to discharge wastewater directly into a surface water body or to a storm sewer that discharges to a surface water body.

(4) Residual sludge shall be disposed of in accordance with the Pennsylvania Department of Environmental Protection requirements and standards.

5. *Automobile/Truck/Limousine Rental Service*.

A commercial facility that offers automobiles, trucks, and/or limousines for rent or lease for specific periods of time, including a stand-alone facility for automobile leasing services associated with an off-site automobile dealership.

6. *Brew Pub*.

An Eating Place, as defined herein, where at least twenty-five (25) percent of the beer served is produced on-site. To be considered a brewpub, an establishment must produce its own beer and sell a significant portion of it on-site. . The Brew Pub shall be licensed by the Pennsylvania Liquor Control Board and any successor agency of the Commonwealth.

7. *Child Care Center*.

A facility that provides services for which the Pennsylvania Department of Human Services (DHS) has promulgated licensure or approval regulations. A Child Care Center is a facility in which seven (7) or more children unrelated to the operator receive Child Care services. In addition to the requirements specified in DHS licensure or approval regulations, the following use regulations apply:

a. Outdoor play areas shall not be located in the Front Yard.

b. Outdoor play areas shall be screened from adjoining residentially zoned properties pursuant to the screening requirements specified in Section 4.02.

c. Any vegetative materials located within the outdoor play areas shall be of a non-poisonous and non-invasive type.

d. All outdoor play areas shall provide a means of shade, such as shade trees or pavilions.

8. *Community Service.*

A public or not-for-profit service or activity undertaken to advance the welfare of citizens in need that provides food and goods distribution to private citizens.

9. *Construction Related Services.*

A general category of construction related business offices, material and equipment storage areas, sales and service facilities, for businesses such as excavators, landscapers, general and specialty contractor offices, electrical, plumbing and heating shops, and equipment rental shops. An Outdoor Storage Yard may be permitted as an Accessory Use. The following use regulations shall apply:

a. When located adjacent to a residential use, hours of operation shall not exceed the hours of 6:00 AM and 9:00 PM prevailing time Monday – Friday, and 7:00 AM – 9:00 PM prevailing time Saturday. The use shall be prohibited from operating on Sundays.

b. An accessory Outdoor Storage Yard use shall be secured and screened from view of the front Lot line. Screening shall be required pursuant to Section 4.02 of this Ordinance.

(1) Loose materials shall not be stacked higher than twenty (20) feet.

(2) Loose materials shall at a minimum be stored in a three (3)-sided shelter and shall be covered.

(3) Materials shall be set back a minimum of five (5) feet from any Lot line.

(4) Outdoor lighting shall be contained to the Outdoor Storage Yard area and shall have zero footcandle spill over onto contiguous lots.

10. *Craftsmen Services.*

An establishment employing skilled tradespeople or contractors who specialize in particular areas of construction, repair, or renovation. Examples include, but are not limited to, carpenters, plumbers, electricians, mechanics, material fabricators, roofers, painters, and similar artisan trades.

11. *Drinking Place.*

Any established licensed and permitted location under the Pennsylvania Liquor Control Board to brew and sell alcoholic beverages, including beer, wine, and liquor for on-site consumption.

12. *Eating Place.*

An establishment selling prepared foods for on-premises consumption and carry-out. Includes such uses as restaurants, cafes, coffee shops, diners, delis, fast-food establishments, lunch counters, and cafeterias. Eating Places, which do not include Brew Pubs, may sell alcoholic beverages, including beer, wine, and liquor for on-site consumption as permitted through the Pennsylvania Liquor Control Board.

13. *Electronic Cigarette/Vaporizer Store*.

A business establishment for which more than eighty (80) percent of the GFA is dedicated to the storage, mixing, display, on-site consumption, and/or retail sale of electronic cigarette devices, nicotine-enriched solutions, and/or liquid products that are manufactured for Use with electronic cigarettes.

14. *Entertainment Assembly*.

A facility, other than a Stadium/Arena or Adult Establishment, for holding events, indoors or outdoors, to which members of the public are invited with or without charge. Events may include theatrical performances; live music performances; dances, balls; shows or exhibitions; or live or broadcasted wrestling, boxing/sparring matches, or other sporting events. The following use regulations shall apply:

a. *Sewage Disposal*. The premises upon which Entertainment Assembly uses are conducted shall have an on-Lot disposal system, holding tank, or be serviced by public sewer system. No portable toilets are permitted.

b. Buildings and Structures within which Entertainment Assembly uses are conducted shall be in compliance with the PA Uniform Construction Code.

c. *Noise*. Noise performance shall be in accordance with the Performance Standards specified under Section 4.15 of this Ordinance.

15. *Family Child Care Home*.

A facility that provides services for which the Pennsylvania Department of Human Services (DHS) has promulgated licensure or approval regulations. A Family Child Care Home is a facility in which four (4), five (5) or six (6) children unrelated to the operator receive childcare services. A family care home shall be located in a habitable residential Building that meets Township Building and fire code regulations. In addition to the requirements specified in DHS licensure or approval regulations, The following use regulations shall apply:

a. Outdoor play areas shall not be located in the Front Yard.

b. Outdoor play areas shall be screened from adjoining residentially zoned properties pursuant to the screening requirements specified in Section 4.02 of this Ordinance.

c. Any vegetative materials located within the outdoor play areas shall be of a non-poisonous and non-invasive type.

d. All outdoor play areas shall provide a means of shade, such as shade trees or pavilions.

e. Refuse shall be collected on a regular basis by a commercial waste contractor.

16. *Family Entertainment Center*.

A Business occupying a Premises, Structure and Use owned, operated, or leased as small indoor and/or outdoor amusement parks that offer a wide variety of entertainment for all ages, which may include food and beverage service, music, event space, meeting rooms, and a variety of amusements. The following use regulations shall apply:

a. The Premises shall contain a minimum of ten (10) acres.

b. The Premises shall have access and frontage along a public street.

c. Notwithstanding anything in this Ordinance to the contrary, the maximum Impervious area coverage for a Family Entertainment Center shall be seventy (70) percent.

17. *Funeral Home / Mortuary*.

A place or premise devoted to or used in the care and preparation for burial, disposition, or transportation of dead human bodies, or any specifically designated location or address where any person or persons shall hold forth that he, she, or they are engaged in the practice of mortuary science, embalming, cremation services, or funeral directing, and shall mean and include any premises of any kind whatsoever in which mortuary science in any of its branches is practiced or in which more than five funerals may be conducted in any calendar year, except publicly owned buildings, places of worship and meeting places of fraternal organizations. Funeral homes/mortuaries may include crematoriums, visitation rooms, and administrative offices. The following use regulations shall apply:

a. *Lot Size*. The minimum Lot area shall be 40,000 square feet.

b. Traffic circulation on the Lot shall be designed to provide for the queuing of vehicles on the property without obstructing the free flow of traffic on adjoining Streets.

18. *General Service*.

A Service Use with a GFA of three thousand (3,000) square feet or greater as well as larger scale indoor and outdoor entertainment Uses. General Service includes Uses such as those listed in Table 3.04 Typical Service Uses.

Table 3.04, Typical Service Uses.

Typical Neighborhood Service Uses	Typical General Service Uses
Arcades and Billiards	All Neighborhood Services over 3,000 square feet
Barber Shop, Beauty Salon, and Spas	Animal Boarding, Daycare, & Training (interior only)
Coffee Shop	Aquatic Facilities
Dry Cleaning (pick-up/outlet only)	Archery Ranges (indoor only)
Financial Depository Institutions/Banks, chartered and excluding Check Cashing Establishments	Batting Cages
Fitness Club, Athletic Club, Dance Studio, Yoga Studio and Gym	Bowling Alleys
Home Furniture and Equipment Repair	Miniature Golf Courses

Laundromat Locksmith Mailing and Delivery Services Medical Clinic Pet Grooming Phone Sales and Service Photocopying and Printing Photography Studio with Supplies Post Office, limited distribution Rental of any good permitted to be sold in the district Repair and/or servicing of any good permitted to be sold in the district Tailor or Seamstress Tanning Salon Travel Agency, Ticketing, and Tour Operator	Motion Picture Theaters Recreation, Commercial Indoor Rental of any good permitted to be sold in the district Repair of any good permitted to be sold in the district Skating Rink

19. *Group Child Care Home*.

A facility that provides services for which the Pennsylvania Department of Human Services (DHS) has promulgated licensure or approval regulations. A facility in which seven (7) to twelve (12) children unrelated to the operator receive Child Care services. In addition to the requirements specified in DHS licensure or approval regulations, the following use regulations apply:

a. Outdoor play areas shall not be located in the Front Yard.

b. Play areas shall be located and designed so as not to disrupt normal activities of adjoining uses permitted within the zoning district(s) established under Article 2 of this Ordinance.

c. Outdoor play areas shall be screened from adjoining residentially zoned properties pursuant to the screening requirements specified in Section 4.02.

d. Any vegetative materials located within the outdoor play areas shall be of a non-poisonous and non-invasive type.

e. All outdoor play areas shall provide a means of shade, such as shade trees or pavilions.

20. *Kennel*.

Any establishment available to the general public where a dog or dogs are housed or trained for compensation by the day, week, or a specified or unspecified time. The term shall not include a kennel where the practice of veterinary medicine is performed if the kennel is covered by the provisions of the act of December 27, 1974 (P.L.995, No.326), known as the "Veterinary Medicine Practice Act." The term kennel shall include any establishment available to the general public that, for consideration, takes control of a dog

from the owner for a portion of a day for the purposes of exercise, day care or entertainment of the dog. For the purpose of this term, each time a dog enters the kennel it shall be counted as one dog. This term does not include an establishment engaged only in dog grooming or dog training. The term shall also include any kennel operated for the purpose of breeding, buying and selling or in any way transferring dogs for non-research purposes. The following use regulations shall apply:

a. All Kennels shall be licensed by the Pennsylvania Department of Agriculture and shall be constructed and maintained in accordance with Pennsylvania's Dog Law, 3 P.S. § 459-101, *et seq*. The Applicant shall demonstrate compliance with all State requirements.

b. *Minimum Lot Area*. Each site shall contain at least five (5) acres.

c. All animal boarding Buildings that are not completely enclosed, and any outdoor animal Pens, stalls or runways shall be located within the rear yard and screened from adjoining properties and shall be setback a minimum of two hundred (200) feet from all property lines. Screening shall be made pursuant to the requirements specified under Section 4.02 of this Ordinance.

d. All outdoor recreation areas shall be enclosed to prevent the escape of animals. All such enclosures shall be set back a minimum of two hundred (200) feet from all property lines.

e. Sanitary disposal facilities shall be available to eliminate animal and food waste, used bedding, dead animals and debris, and to minimize vermin infestation, odors, and disease hazards.

f. The subject property shall be located no closer than five hundred (500) feet from the residential and mixed-use zoning districts established under Article 2 of this Ordinance and/or property containing a residence.

g. Yard areas or Pens shall be fenced with wire mesh fencing and setback a minimum of two hundred (200) feet from all property lines.

21. *Massage Establishment*.

Any establishment having a fixed place of business where any person, partnership, corporation or association, engages in, carries on, offers or permits to be engaged in or carried on, the practice of Massage Therapy as is defined above, but shall exclude licensed hospitals, licensed nursing homes, medical clinics and the offices and quarters of licensed health profession practitioners. The following use regulations shall apply:

a. A Massage Establishment shall be conducted within the principal Building as the main or principal use.

d. Massage technicians shall meet all educational, training, or other requirement established from time to time by the Commonwealth of Pennsylvania and any other governmental authority having jurisdiction thereof.

e. The Massage Establishment shall not be operated between the hours of 9:00 PM Midnight and 7:00 AM EST.

22. *Medical Clinic*.

A licensed institution providing same-day, walk-in, or urgent medical care and health services to the community, primarily ill or injured out-patients, which is not a hospital, and which is not a medical office, and which shall not include methadone or drug rehabilitation clinics. Provision of an indoor waiting area for use by individuals when a portion of the facility is not opened for operation is required, so that clients shall not be required or allowed to queue for services outdoors.

23. *Microbrewery, Microdistillery, Microwinery*.

A facility for the production, packaging and sampling of alcoholic beverages—including beer, wine, cider, mead, and distilled liquors—for retail or wholesale distribution, for sale or consumption on- or off -premises and which produces less than 15,000 gallons of such beverages per year. It may include a restaurant (i.e., Eating Place), tasting room and retail space to sell the product on site. The Microbrewery / Microdistillery / Microwinery shall be licensed by the Pennsylvania Liquor Control Board and any successor agency of the Commonwealth.

24. *Methadone Treatment Facility*.

A facility licensed by the Pennsylvania Department of Health (DOH) to use the drug methadone in the treatment, maintenance, or detoxification of persons. The following use regulations shall apply:

a. A methadone treatment facility shall have frontage on and direct access to a an Minor Arterial or Major Collector Street.

b. For any Building (or portion thereof) which is proposed to contain a methadone treatment facility, the Lot upon which such Building (or portion thereof) sits shall not be located closer than five hundred (500) feet (or the then current Pennsylvania statutory- provided distance, whichever is greater) to a Lot utilized for an existing school, public playground, public park, residential housing area, residential Lot, single- family dwelling, Child Care facility, church, meeting house or other actual place of regularly scheduled religious worship established prior to the proposed methadone treatment.

c. Notwithstanding Subsection b. above, a methadone treatment facility may be established and operated closer than five hundred (500) feet (or the then current Pennsylvania statutory-provided distance, whichever is greater) to a Lot utilized for an existing school, public playground, public park, residential housing area, residential Lot, single-family dwelling, Child Care facility, church, meeting house or other actual place of regularly scheduled religious worship established prior to the proposed methadone treatment, if, by majority vote, the governing body approves a use for said facility at such location. At least fourteen (14) days prior to any such vote by the governing body, one or more public hearings regarding the proposed methadone treatment facility location shall be held within the municipality pursuant to public notice. All owners of real property located within five hundred (500) feet of the proposed location shall be provided written notice of said public hearing(s) at least thirty (30) days prior to said public hearing(s) occurring.

d. In addition to the otherwise required number of off-street parking spaces specified by Section 4.11 of this Ordinance, additional parking shall be required specifically

for the methadone treatment facility at a rate of one additional parking space for each two hundred (200) feet of area devoted to the methadone treatment facility.

e. Each Building or portion thereof proposed for use as a methadone treatment facility shall have a separate and distinct entrance utilized solely for direct entrance into the methadone treatment facility. Access to the methadone treatment facility shall not be permitted via a shared Building entrance or from a shared interior corridor within the Building in which it is located.

f. Indoor patient waiting room area(s) shall be provided that comply with applicable building codes and be designed to ensure patient privacy and comply with regulations like HIPAA, particularly when dealing with patient intake or discussions of medical information.

25. *Neighborhood Service*.

A service Use with a GFA of less than three thousand (3,000) square feet. Neighborhood Service includes such uses as those listed in Table 3.04, Typical Service Uses.

26. *Private Club*.

An establishment that operates for the good of the club's membership for legal purposes of mutual benefit, entertainment, fellowship, or lawful convenience. A Private Club shall reserve its facilities for members and shall have genuinely exclusive membership criteria. A Private Club shall adhere to its constitution and bylaws, hold regular meetings open to its members, conduct its business through officers who are regularly elected, admit members by written application, investigation and ballot, charge and collect dues from elected members, and maintain records as required by law. The sale of alcohol shall be secondary to the actual reason for the club's existence and be licensed by the Pennsylvania Liquor Control Board. The Township may conduct routine inspections of the Premises to ensure the absence of illegal activity on the Premises, adequate maintenance of the interior and exterior of the Premises, the absence of public disturbance or Nuisance, and compliance with the zoning and other applicable regulations. The following use regulations shall apply:

a. All Private Clubs shall front and have access to an Minor Arterial or Major Collector Street.

b. All off-street parking shall be provided between the front face of the Building and a point twenty-five (25) feet from the Right-of-Way line of adjoining Street(s). Parking Lots shall also be set back a minimum of fifty (50) feet and screened from any Lot lines of adjoining residences.

c. All outdoor recreation/activity areas shall be set back at least fifty (50) feet from any property line.

d. Screening shall be provided along any adjoining land within residential and mixed-use zoning districts established under Section 2.01 of this Ordinance. Screening shall be provided in accordance with the screening standards specified in Section 4.02 of this Ordinance.

27. *Recreational Campground*.

A lodging establishment organized to accommodate five (5) or more separate, designated campsites for shelter in either privately owned or campground-owned lodging. The property may include amenities, such as site-specific electric and sewer hookups, public bath houses, convenience stores, recreational areas and pools. The campground may permit seasonal sites. Seasonal guests shall not be required to have month-to-month agreements. Approved guests may leave their trailer on the site throughout the year but may not maintain a permanent residence. The term shall not include a recreational vehicle or tent campsite in a Pennsylvania State Park facility. The following use regulations shall apply:

a. *Setback*. No camping site shall be located within one hundred (100) feet of a public Right-of-Way or within one hundred (100) feet of any property line or within three hundred (300) feet of a residence not located on the property of the recreational campground. No part of any setback shall be used for any other required area for a campground, service Buildings, drives or water and sewage facilities which are located aboveground except to contain the required buffer yard.

b. *Buffer Yard*. A buffer yard shall be provided pursuant to the standards specified in Section 4.02 of this Ordinance.

c. *Campground*. A campground shall have a minimum Lot size of five (5) acres. If a campground is being developed on the same parcel as another use, for example a home or agricultural use, the parcel shall have enough acres to delineate the minimum five (5) acres to the campground while reserving the minimum acres required for the existing principal use.

d. *Campsites*. Individual campsites shall contain a minimum of 2,000 square feet with a minimum width of forty (40) feet. Each campsite shall provide a clear, level, well-drained, mud-free pad for accommodating trailers and campers. A maximum of ten (10) campsites per acre is permitted.

e. *Parking*. Parking shall be provided within the campground pursuant to the following requirements.

(1) Camping site parking shall provide a clean, mud-free, and well-drained area.

(2) No on-Street parking shall be permitted within the campground.

(3) Off-Street parking spaces for at least two (2) motor vehicles shall be provided for each camping site.

f. *Streets and Roads*. Each camping site shall front upon an approved Street or road.

(1) One-way Streets and roads with camping site parking shall have an improved surface of no less than twelve (12) feet.

(2) Two-way Streets and roads with camping site parking shall have an improved surface of no less than twenty (20) feet.

(3) One-way Streets and roads with on-Street parking on one side shall have a paved surface of no less than twenty (20) feet, and twenty-eight (28) feet for parking on both sides.

(4) Two-way Streets and roads with on-Street parking shall have an improved surface of no less than twenty-eight (28) feet for one-side parking, and thirty-six (36) feet for both-side parking.

(5) Streets and roads shall be graded to provide drainage from the road surface. Drains and culverts shall be provided as necessary to maintain proper drainage.

28. *Self-Storage Facility*.

Any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such space for the purpose of storing and removing personal property. No occupant shall use a self-service storage facility for residential purposes.

a. Minimum Lot area shall be not less than one (1) acre.

b. The maximum size for any storage unit shall be twenty (20) feet by forty (40) feet for a total maximum of eight hundred (800) square feet.

c. Under no circumstances shall a Self-Storage Facility mean a Warehouse/Distribution use provided for under Section 3.04(I)15. of this Ordinance.

d. At least forty (40) feet of clear, unobstructed driveway depth shall be provided from the road to the primary access gate or principal entry point of the facility.

e. Interior drive aisle widths shall not be less than twenty-five (25) feet.

f. Buildings shall be designed and located so that overhead doors and the interior driveways within such facilities are not visible from the adjacent public Right-of-Way. This provision does not apply to overhead doors that are within an enclosed self-storage Building and that are visible only through windows of the Building.

g. No door openings for any storage unit shall be visible at ground level from any residentially zoned property or residential use.

h. All fences or walls visible from the public Right-of-Way shall be constructed of decorative Building materials such as slump stone masonry, concrete block, wrought iron, or other similar materials.

i. Boats, campers, recreational vehicles, and travel trailers may be stored outside of an enclosed Building, but only in an area designated for such outside storage on an approved site plan and not visible from the public Right-of-Way or adjacent property when viewed from the ground level.

j. The following uses are prohibited and all Self-Storage Facilities' rental and/or use contracts shall specifically prohibit the same:

(1) Residential use and/or occupancy.

(2) Bulk storage of flammable, combustible, explosive, or hazardous materials. Nothing in this Article is meant to prohibit the storage of motor vehicles,

motor craft, or equipment that contain a normal supply of such fuels for their operation.

(3) Repair, construction, reconstruction, or fabrication of any item, including but not limited to, any boats, engines, motor vehicles, lawn mowers, appliances, bicycles, or furniture.

(4) Auctions, except as provided for in the Self-Service Storage Facilities Act (Act of Dec. 20, 1982, P.L. 1404, No. 325), commercial wholesale or retail sales not related to the storage activity on the premises or garage sales. Retail sales of supplies associated with the rental of storage units and/or rental of vehicles shall be permitted, such as boxes, packing tape, locks, and similar items.

(5) The operation of power tools, spray-painting equipment, compressors, welding equipment, kilns, or other similar tools or equipment.

(6) Any business activity within the storage units.

k. On-site management shall be provided for a minimum of twenty (20) hours per week, during the hours of 8:00 AM and 7:00 PM prevailing time. Contact information for management during the remaining hours of the day shall be prominently posted on the premises.

29. *Smoking Places*.

Establishments for which the sale of tobacco products for on-site consumption yields at least seventy-five (75) percent of gross revenues, including such Uses as hookah lounges.

30. *Tattoo/Piercing Parlor*.

Establishments primarily in the business of applying lettering, art, and other images with permanent and semi-permanent inks, paints, pigments, or piercings to the body of patrons.

31. *Truck Repair and Towing Service*.

A business involving the repair and towing services for tractor trucks or similar heavy commercial vehicles. A Truck Repair and Towing Service may also include Truck Wash and Truck Stop-related services and when provided must also comply with the Truck Wash and Truck Stop standards specified in Subparagraph 33 and Subparagraph 34 below. The following use regulations shall apply:

a. *Permitted Types of Repair Service*. Repairs include minor and heavy repair services including engine rebuilding, bodywork, repair and replacement of cooling, electrical, fuel and exhaust systems, brake adjustments, relining and repairs, wheel alignment and balancing, suspension systems, and other mechanical and non-mechanical elements of Vehicles.

b. *Outdoor Storage*. Disabled or inoperable Vehicles and those awaiting pick-up may be stored outdoors if all the following occur:

(1) No more than ten (10) Vehicles are stored.

(2) The storage area is located in the Rear Yard and screened from view of the front Lot line. The screening shall be a minimum of eight (8) feet high and shall be a galvanized chain link fence with privacy slats.

(3) The storage area shall also be screened from adjacent uses pursuant to the Screening requirements specified under Section 4.02 of this Ordinance.

(4) The Vehicles shall be stored in the designated storage area and not in the public right of way or in a part of the Lot not specifically designated as an off-street parking space.

(5) All ventilation associated with fuel storage tanks shall be setback one hundred (100) feet from any adjoining residential use or property within a residential or Mixed-Use zoning districts and oriented away from such property.

(6) The Applicant shall furnish evidence that the storage and disposal of materials shall be accomplished in a manner that complies with all applicable state and federal regulations.

c. *Outdoor Activities*.

(1) All repairs or washing activities shall occur inside a Building.

(2) Temporary outdoor display of seasonal items, such as windshield wiper fluid or salt, is permitted during business hours adjacent to the principal Building.

d. *Environmental Controls*.

(1) Car washes shall include a water reclamation system for the purpose of recycling water.

(2) Centralized sewage disposal facilities and centralized water supply facilities shall be provided. Filtration of wastewater shall be conducted before discharge to a sanitary sewer system.

(3) A National Pollutant Discharge Elimination System (NPDES) permit from the Pennsylvania Department of Environmental Protection is required to discharge wastewater directly into a surface water body or to a storm sewer that discharges to a surface water body.

(4) Residual sludge shall be disposed of in accordance with the Pennsylvania Department of Environmental Protection requirements and standards.

32. *Truck Stop*.

An establishment engaged primarily in the fueling, servicing, repair, or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A Truck stop may also include overnight accommodations, showers, convenience store, or restaurant facilities primarily for the use of Truck stop patrons. The following use regulations shall apply:

a. The site shall have frontage on and direct vehicular access to an Minor Arterial or Major Collector Street.

b. No point on the site boundary shall be located within three hundred (300) feet of any residential zoning district or residential property line.

c. Ingress, egress and internal traffic circulation shall be designed to ensure safety and minimize congestion.

d. All materials and equipment shall be stored within a completely enclosed Building, as defined herein.

e. *Truck Idling*. Overnight Truck idling is prohibited within the Township limits. No person shall allow the primary propulsion engine of a motor vehicle to idle for more than ten (10) consecutive minutes when the motor vehicle is not in motion. Truck stop facilities shall provide signage indicating overnight idling is prohibited. Such signage must be located at the entrance of overnight parking Lots in a visible manner to Truck drivers. Exemptions from this requirement include the following:

(1) A motor vehicle that has a gross vehicle weight rating of 19,500 pounds or less.

(2) The primary propulsion engine of a motor vehicle being used to provide air conditioning or heating necessary for employee health or safety in an armored vehicle while the employee remains inside the vehicle to guard the contents or while the vehicle is being loaded or unloaded:

(3) A motor vehicle forced to remain motionless because of traffic conditions over which the operator has no control.

(4) A motor vehicle being used by the United States military, national guard, or reserve forces, or as an emergency or law enforcement motor vehicle.

(5) The primary propulsion engine of a motor vehicle providing a power source necessary for maintaining cargo climate control where Truck stop electrification technologies are not provided for motor vehicles.

(6) The primary propulsion engine of a motor vehicle being operated for minor maintenance or diagnostic purposes.

(7) The primary propulsion engine of a motor vehicle being operated solely to defrost a windshield.

(8) The primary propulsion engine of a motor vehicle that is being used for commercial or public passenger transportation. or passenger transit operations, in which case idling up to a maximum of thirty (30) minutes is allowed.

(9) The primary propulsion engine of a motor vehicle being used to perform an essential job function related to roadway construction or maintenance.

(10) Vehicles with a gross vehicle weight rating greater than 19,500 pounds that idle overnight must be equipped with a 2008 or subsequent model year heavy-duty diesel engine or liquefied or compressed natural gas

engine that has been certified by the United States Environmental Protection Agency or another state environmental agency to emit no more than thirty (30) grams of nitrogen oxides emissions per hour when idling.

33. *Truck Wash*.

A facility for washing or steam cleaning commercial vehicles (including a self-service operation), operating either as a separate facility or when installed and operated in conjunction with another use, and which installation includes equipment customarily associated with a car wash and which is installed solely for the purpose of washing and cleaning commercial vehicles. The following use regulations shall apply:

a. Truck washes shall include filtration and reclamation systems to remove contaminants and pollutants and reuse the water for subsequent washes and rinses, reducing water consumption and environmental impact .

b. Centralized sewage disposal facilities and centralized water supply facilities shall be provided. Filtration of wastewater shall be conducted before discharge to a sanitary sewer system.

c. A National Pollutant Discharge Elimination System (NPDES) permit from the Pennsylvania Department of Environmental Protection is required to discharge wastewater directly into a surface water body or to a storm sewer that discharges to a surface water body.

d. Residual sludge shall be disposed of in accordance with the Pennsylvania Department of Environmental Protection requirements and standards.

e. On-Lot traffic circulation channels and parking areas shall be clearly marked.

f. Adequate provision shall be made for the proper and convenient disposal of refuse.

g. Water from the Truck Wash operation shall not flow onto sidewalks or Streets, to prevent hazards from ice.

34. *Veterinary / Animal Hospital.*

A use where the practice of veterinary medicine is performed in accordance with the Pennsylvania Veterinary Medicine Practice Act (Act of Dec. 27, 1974, P.L. 995, No. 32) by a licensed doctor of veterinary medicine who deals with the diagnosis, prognosis, treatment, administration, prescription, operation or manipulation or application of any apparatus or appliance for any disease, pain, deformity, defect, injury, wound, physical condition or mental condition requiring medication of any animal or for the prevention of or the testing for the presence of any disease. The following use regulations shall apply:

a. Such use shall obtain and maintain all applicable federal, state, and local licensing and permitting requirements.

b. All facilities, including all treatment rooms, and boarding areas shall be maintained within a completely enclosed building. Such facilities shall be designed and constructed in a manner that shall reduce the sound coming from any such clinic or hospital to the level of sixty-five (65) decibels at any given adjacent property line.

c. Outdoor exercise runs shall be fenced with wire mesh fencing and setback a minimum of two hundred (200) feet from all property lines. Use of runs shall be limited to the hours of 8 AM – 6 PM EST.

d. Proper sanitary disposal facilities shall be available to eliminate animal and food waste, used bedding, dead animals, and debris, and to minimize vermin infestation, odors, and infectious disease hazards.

e. Facilities shall be designed and constructed in a manner that shall eliminate any emission of odor offensive to persons in the area of such hospitals.

(F) *Adult Uses*.

1. *Adult Establishments*.

Shall be defined as any of the following:

a. Any commercial establishment, including but not limited to Adult Book Stores, Adult Motion Picture Theaters, Adult Mini-Motion Picture Theaters, Adult Entertainment Cabaret, or other adult entertainment establishments, in which is offered for sale ten (10) percent or more of its stock in trade video cassettes, movies, books, magazines, or other periodicals or other media which are distinguished or characterized by their emphasis on nudity or sexual conduct or activities which if presented in live presentation would constitute adult entertainment.

(1) *Adult Bookstore*. An establishment having as a substantial or significant portion of its stock in trade motion pictures, video recordings, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to obscene activities for observation by patrons thereof or an establishment with a segment or section devoted to the sale, rental or display of such material.

(2) *Adult Cabaret*. A nightclub, bar, Restaurant or similar establishment that regularly features live performances that are characterized by the exposure of specific anatomical areas or by Specified Sexual Activities, or films, motion pictures, video cassettes, slides or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by any emphasis upon the depiction or description of specified activities or anatomical areas.

(3) Adult Mini-Motion-Picture-Theater. An enclosed Building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to obscene activities for observation by patrons therein.

(4) *Adult Motion Picture Theater*. An enclosed Building with a capacity of fifty (50) or more Persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to obscene activities for observation by patrons therein.

b. Any commercial establishment that offers for a consideration physical contact in the form of wrestling or tumbling between Persons of the opposite sex.

c. Any commercial establishment that offers for consideration activities between male and female Persons and/or Persons of the same sex when one or more Persons are nude or Semi-Nude.

d. Any commercial establishment that offers for a consideration nude human modeling.

e. *Proximity to Certain Uses*. No Building or Premises shall be used, and no Building shall be erected or altered, which is arranged, intended or designed to be used for an Adult Establishment if any part of such Building or Premises is situated on any part of a Lot within a five hundred (500) foot radius in any direction of any Lot used for, or upon which is located any Building used for any Residential Use; Houses of Worship, Medical Clinic, medical office, Hospital, school, facility attended by Persons under the age of eighteen (18) (including but not limited to school programs, children's museums, camps, and athletic leagues), Park, or other Adult Establishment.

f. The following additional Use regulations shall apply to all Adult Establishments:

(1) No more than five (5) percent of the Lot may be covered by Buildings or accessory Buildings.

(2) A buffer yard shall be provided pursuant to Section 4.02 of this Ordinance.

(3) Parking shall be provided for not less than one motor vehicle per two hundred (200) square feet of the GFA of the Building.

(4) No material, merchandise, film or service offered for sale, rent, lease, loan or for view shall be exhibited, displayed or graphically represented outside of a Building or Structure or that can be seen from the exterior of the Building.

(5) Any Building or Structure used and occupied as an adult regulated facility shall be windowless or have an opaque covering over all windows or doors of any area in which materials, merchandise, film, service, or entertainment are exhibited or displayed.

(6) No Sign shall be erected upon the premises depicting or giving a visual representation of the type of materials, merchandise, film, service, or entertainment offered therein.

(7) Each and every entrance to the Structure shall be posted with a notice of at least four (4) square feet that the Use is an adult regulated facility restricting persons under the age of eighteen (18) from entrance.

(8) No unlawful sexual activity or conduct shall be performed or permitted.

(9) *Prohibited Activities*. Any Use or activity prohibited by §5903 of the Pennsylvania Crimes Codes as amended and further defining the offense of obscenity, redefining obscene and further providing for injunctions.

(10) No adult-related Use may change to another adult-related Use, except upon Conditional Use approval.

(11) The Use shall not create an enticement for minors because of its proximity to nearby uses where minors may congregate.

(12) No more than one adult-related Use may be located within one Building.

(G) *Employment Uses*.

A category of Uses for businesses involving activities that may not be associated with walk-in customers.

1. Office Uses.

A category of Uses for businesses that involve the transaction of affairs and/or the training of a profession, service, industry, or government. Patrons of these businesses usually have set appointments or meeting times; the businesses do not typically rely on walk-in customers. Office Uses include those listed in Table 3.05, Typical Office Uses.

Table 3.05, Typical Office Uses.

Architecture/Engineering/Design Broadcasting, Recording, and Sound Studio Charitable Institutions Computer Programming and Support Consulting Detective Services Educational Services (tutor and testing) Employment Agency Financial and Insurance Laboratories, Medical, Dental, Optical Legal Services Management Services	Medical and Dental Offices (other than in Hospitals or on a hospital campus, and other than Medical Clinics) News Agency Physical Therapy/Physical Rehabilitation Public Relations and Advertising Property Development Real Estate and Apartment Finders Research and Development Research Agency Support Offices for other uses Surveying Training Center

(H) Infrastructure Uses.

A category of Uses for the provision of public and private infrastructure to support other uses and/or the conveyance of people, goods, and services. Infrastructure Uses may not include a principal Building meeting the Building type requirements. Accessory Structures may be included.

1. Airport.

A principal use where aircraft are stored, maintained, repaired, and refueled, and where aircraft take-off and land. Airports may also include other accessory accommodations for aircraft passengers, cargo, or both. The following use regulations shall apply:

a. All facilities shall be designed and operated in strict compliance with all applicable State and Federal laws and regulations.

b. The Applicant shall furnish evidence of the obtainment of a license from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the conditional use application.

c. No part of the take-off/landing strip and/or pad shall be located nearer than fifteen hundred (1,500) feet from any property line.

2. *Heliport and Vertiport*.

A use where one or more helicopters and unmanned aerial systems (UASs) may land/take-off and be stored. Such use may also include support services such as fueling and maintenance equipment, passenger terminals and storage hangars. For the purposes of this Ordinance, UAS are air vehicles and associated equipment that do not carry a human operator, but instead are remotely piloted or fly autonomously. UAS commonly are referred to as Unmanned Aerial Systems (UAS), Unmanned Aerial Vehicles (UAV), Remotely Piloted Aircraft Systems (RPAS) and drones. A UAS generally consists of 1) an aircraft with no pilot on board, 2) a remote pilot station, 3) a command and control link, and 4) a payload specific to the intended application/operation, which often includes specialized cameras or other sensors that collect data for near term analysis. For example, hyperspectral cameras can be used in precision agriculture applications to determine the relative health of specific crops and to more accurately distribute fertilizer and/or insecticides. In addition to the command and control link, most UAS will have some means of transmitting collected data for analysis. The following use regulations shall apply:

a. *Minimum Lot Area*. Five (5) acres.

b. All facilities shall be designed and operated in strict compliance with all applicable State and Federal laws and regulations.

c. The Applicant shall furnish evidence of the obtainment of a license from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the conditional use application.

d. No part of the take-off/landing strip and/or pad shall be located nearer than a minimum of one hundred fifty (150) feet from any property line.

3. *Helistop*.

A use on a roof or on the ground to accommodate helicopters for the purpose of picking up and discharging passengers or cargo with no service facilities. The following use regulations shall apply:

a. All facilities shall be designed and operated in strict compliance with all applicable State and Federal laws and regulations.

b. The Applicant shall furnish evidence of the obtainment of a license from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the conditional use application.

c. The proposed helistop would not be detrimental to the health, welfare and safety of the Township residents and their property.

d. The takeoff and landing pad area shall have a minimum length and width (or diameter if circular) of one and one-half (1.5) times the overall length of the largest helicopter intended to use the facility. The pad shall be paved, level, and maintained dirt free. Rooftop pads shall be free of all loose stone and aggregate.

e. At least two (2) approach lanes, or each landing pad shall be provided and maintained free of obstructions and shall be located not less than ninety (90) degrees apart. Each approach lane shall be located within forty-five (45) degrees left or right of the prevailing winds and shall fan out at an angle of ten (10) degrees from the width of the landing pad to a width of one thousand (1,000) feet and shall have a glide angle slope of eight (8) to one (1) measured from the outer edge of the pad.

f. An application for the helistop on a roof shall be accompanied by a certification by a registered engineer that the loads imposed by the helicopter shall be supported by the Structure.

g. The helistop shall be used only for hospital/medical, personal, or executive use by a firm or individual.

h. No helicopter over six thousand (6,000) pounds gross weight shall use any helistop.

i. The helistop shall be located a minimum of one hundred fifty (150) feet from any property line.

j. The Applicant shall furnish evidence of the obtainment of a license, if required, from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the conditional use application.

k. It shall be unlawful for any Person to land, discharge, load or take off in a helicopter in any place within the Township other than at a heliport or helistop except:

(1) In conjunction with a special event as an athletic contest, holiday celebration, parade or similar activity, after seven (7) days advance notice has been given to the Township and permission obtained to make such landing and takeoff.

(2) When necessary for police and/or fire training or when necessary for law enforcement purposes and for emergencies.

(3) In connection with a construction project where a helicopter is to be used to lift equipment in connection with such project.

(4) Spraying and dusting for agricultural purposes.

4. *Principal Solar Energy System (PSES)*.

An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. A PSES is designed as the primary use on a Lot, wherein the power generated is used primarily for off-site consumption. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and Buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures. The following use regulations shall apply:

a. *Applicability*. Principal Solar Energy Systems (PSES) constructed prior to the effective date of this Section shall not be required to meet the terms and conditions

of this Ordinance. Any physical modification to an existing solar energy system, whether or not existing prior to the effective date of this Section that materially alters the solar energy system shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

b. *Bulk and Area Dimensional Requirements*. Notwithstanding the bulk and area dimensional requirements of the underlying zoning district, the following requirements shall apply to PSES in all zoning districts.

(1) *Minimum Lot Size*. Twenty (20) acres.

(2) *Minimum Setbacks*.

(a) Fifty (50) ft. adjacent to a non-residential property line or district boundary (all yards)

(b) Seventy-five (75) ft. adjacent to a residential property line or district boundary, including the MU District.

(3) *Maximum Height*. Twelve (12) ft.

(4) *Maximum Lot Coverage*. Shall be no greater than the maximum lot coverage specified in the applicable zoning district. However, such requirements do not apply if the proposed facility is exempt from stormwater requirements as noted in this Section.

c. The PSES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code as enforced by the Township and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

d. Upon completion of installation, the PSES shall be maintained in good working order in accordance with standards of the municipal codes under which the solar energy system was constructed. Failure of the property owner to maintain the solar energy system in good working order is grounds for appropriate enforcement actions by the Township in accordance with applicable ordinances.

e. All on-site transmission and plumbing lines shall be placed underground to the extent feasible.

f. *PSES Principal Point of Contact*. The PSES Owner and/or operator shall maintain a phone number and identify a Person responsible for the public to contact with inquiries and complaints throughout the life of the project and provide this number and name to the Township. The PSES Owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.

g. *Noise*. A noise study shall be performed and included in the application. The noise study shall be performed by an independent noise study expert and paid for by

the Applicant. Noise from a PSES shall not exceed 50 dBA, as measured at the property line.

h. *Glare*.

(1) All solar energy systems shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways. Exterior surfaces shall have a non-reflective finish.

(2) The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

i. No portion of the solar energy system shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the solar energy system provided they comply with the prevailing sign regulations.

j. No trees or other landscaping otherwise required by the Township or as made a condition of approval of any plan, application, or permit may be removed for the installation or operation of a solar energy system.

k. Prior to the issuance of a zoning permit, PSES applicants must acknowledge in writing that the issuing of said permit shall not and does not create in the property owner or its successors nor assigns in title or create in the property itself the following. This acknowledgement shall be submitted to the Township and placed as a note on the required subdivision and/or land development plans.

(1) The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property, and

(2) The right to prohibit the development on or growth of any trees or vegetation on such property.

l. *Solar Easements*.

(1) Where a subdivision or land development proposes a PSES, solar easements may be provided. Said easements shall be in writing and shall be subject to the same conveyance and instrument recording requirements as other easements.

(2) Any such easements shall be appurtenant, shall run with the land benefited and burdened, and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easement shall include but not be limited to following requirements:

(a) A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed;

(b) Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;

(c) Enumerate terms and conditions, if any, under which the easement may be revised or terminated; and

(d) Explain the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

(3) If necessary, a PSES Developer and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).

m. *Stormwater Requirements*. The Applicant shall submit a Stormwater Management Plan that demonstrates compliance with the stormwater management regulations specified in the Township Subdivision and Land Development Ordinance.

n. *Impervious Coverage*. Impervious coverage limitations established in this section and a detailed stormwater analysis including post construction stormwater management requirements pursuant to 25 Pa. Code § 102.8(n) are required for all solar energy systems unless the following requirements are met. Note Impervious coverage requirements do not apply if the proposed facility is exempt from Stormwater requirements as noted in this section.

(1) The following components of a solar energy system shall be considered impervious coverage and calculated as part of the impervious coverage limitations for the underlying zoning district:

(a) Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.

(b) All mechanical equipment of the system including any structure for batteries or storage cells.

(2) Earth disturbance and grading activities shall be minimized, and natural vegetative cover shall be preserved or restored. Low impact construction techniques shall be used to the maximum extent practicable.

(3) The post-construction condition shall have a minimum uniform ninety (90) percent perennial vegetative cover with a density capable of resisting accelerated erosion and sedimentation. In addition, the following criteria shall be met:

(a) A meadow condition shall be required. Ideal vegetation type is native deep-rooted perennial vegetation.

(b) Existing slopes on the project site shall be ten (10) percent or less. However, projects that need grading within array areas with slopes between ten (10) percent to fifteen (15) percent may be acceptable upon site/project evaluation and certification by a qualified professional engineer and the addition of slope

protection, as deemed necessary. At a minimum, projects with slopes exceeding ten (10) percent shall consider options for maintaining sheet flow and dissipating energy at the drip edge of each row of panels. Sloped areas of greater than ten (10) percent) and any stormwater management features shall also be closely monitored for at least one full growing season after project completion or until vegetation is ninety (90) percent established. This would be in addition to routine inspections conducted during operation and maintenance throughout the life of the project. Vegetation reinforcement or additional BMPs shall be provided accordingly.

(c) Solar panels shall be configured in a manner such that they disconnect surfaces; and promote sheet flow and natural infiltration into the ground beneath the panels.

(d) If areas beneath the solar panels require mowing, the vegetative cover shall not be cut to less than four (4) inches in height.

(e) Vegetative areas shall not be subject to chemical fertilization or herbicide/pesticides application, except for those applications necessary to establish the vegetative cover (in accordance with an approved erosion and sediment plan) or to support crop production related to agrivoltaics.

(f) Compaction of subsoil shall be avoided. Vehicular traffic shall be kept to designated areas and any incidental traffic over the array field by contractors will be minimized to the maximum extent practicable. Construction vehicles and equipment shall avoid areas receiving disconnected runoff during installation of the solar panels. If compaction issues are encountered, the project proponent will be responsible to conduct restorative measures (e.g., subsoil shall be tilled and amended to return the soil to its pre-compaction condition). Areas receiving runoff shall be protected from future compaction.

(g) The site shall be designed to maintain applicable buffer distances from the delineated watercourse or wetland limits in accordance with federal, state, or local regulations.

(h) The site shall not be located directly upslope of areas that are subject to flooding issues-particularly to inhabited structures.

(i) Sites with soils having slip potential shall be more closely evaluated for any geotechnical issues-especially in areas with moderate to steep slopes.

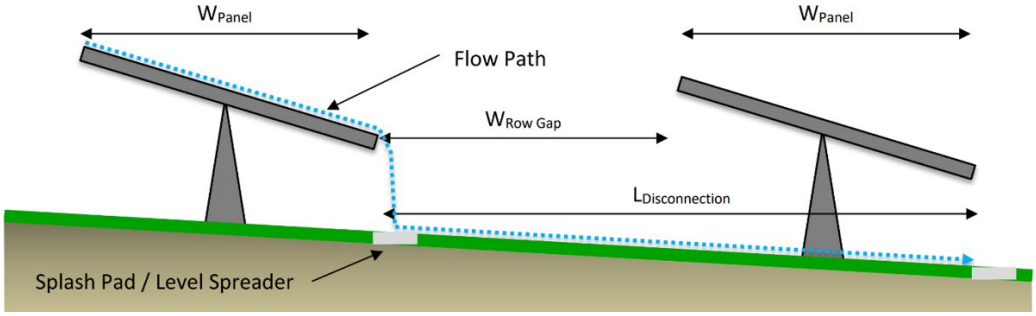
(4) The individual photovoltaic panels shall be arranged according to the following requirements:

(a) Allows and supports the passage of sheet flow between each module, thereby minimizing the production of concentrated runoff.

(b) Allows for the growth of vegetation beneath the panel and between 'arrays'. Shade tolerant vegetation is encouraged.

(c) The length of disconnection (the row gap distance between arrays and the distance beneath the downslope array) is sufficient to infiltrate the runoff from the upslope array. At a minimum, the gap distance between arrays shall be equal or greater than the width of the panel array (see Figure 3.04-1 below).

Figure 3.04-1 – Schematic Profile of Solar Panel Array Providing Impervious Area Disconnection, Source: Ohio, EPA, October 2019.



(5) To qualify for the post construction stormwater management exemption, a qualified licensed professional must conduct an assessment of the proposed solar panel support structures/foundations with regard to increases in earth disturbance and impervious cover as compared to the existing condition. The assessment shall demonstrate no greater than a five (5) percent increase in impervious cover compared to the total site area (excluding access drives and service buildings).

(6) Solar arrays shall achieve the lowest vertical clearance (when at resting position during storm events) while retaining sufficient height to sustain perennial deep-rooted vegetation and optimizing infiltration below the array. Limiting the vertical clearance of the solar array will minimize the potential for accelerated erosion to occur along the drip line of the solar array. Additional controls such as turf reinforcement/energy dissipation may be needed to address erosion and scour along the dripline-particularly in cases where the lowest vertical clearance of solar panels from the ground exceeds ten (10) feet.

o. *Proximity to Power Grid*. Any proposed PSES shall be located within the following distances of an adequately sized power line, a substation that is capable of accepting solar energy into the electricity grid, or another solar facility.

(1) *Maximum Distance to Three-Phased Power Lines*.

(a) *10 MW or smaller*. 1,000 ft.

(b) *69 kV or higher*. One (1) mile

(2) *Distance to Substation*. Two (2) miles

p. *Plan Requirements*. A report and plan highlighting the existing conditions of the property shall be included in the submission to the Township. The information shall highlight existing vegetation, topography, and other existing natural features.

(1) Ground mounted PSES require submission of a land development plan if the solar project area is greater than 5,000 square feet.

(2) Roof mounted PSES do not require submission of a land development plan.

q. *Permit Requirements*.

(1) PSES shall comply with the West Pennsboro Township Subdivision and Land Development Ordinance requirements through submission of a land development plan. The installation of PSES shall be in compliance with all applicable permit requirements, codes and regulations.

(2) The PSES Developer and/or operator shall repair, maintain and replace the PSES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the PSES in good repair and operating condition.

r. *Decommissioning*.

(1) The PSES owner is required to notify the Township immediately upon cessation or abandonment of the operation. The solar energy system shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.

(2) The PSES Developer shall then have six (6) months from abandonment in which to dismantle and remove the solar energy system including all solar related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations and other associated facilities from the property. If the Developer fails to dismantle and/or remove the solar energy system within the established timeframes, the Township may complete the decommissioning at the Developer's expense.

(3) The PSES Developer shall, at the time of application, provide the Township with an estimate of the cost of performing the decommissioning activities required herein, together with an administrative and contingency factor equal to twenty-five (25) percent to account for the cost of obtaining permits to complete said activities. The estimate may include an estimated salvage and resale value, discounted by a factor of twenty (20) percent. The decommissioning cost estimate formula shall be as follows:

[Gross Cost of Decommissioning Activities] + [Administrative Factor of Twenty-five (25) Percent] – [Salvage and Resale Credit of Eighty (80) Percent] = Decommissioning Cost Estimate.

(4) On every fifth (5th) anniversary of the date of providing the decommissioning financial security the PSES Developer shall provide an updated decommission cost estimate based on the formula set forth above with adjustments for inflation and construction cost and value changes. If the decommissioning security amount changes, the PSES Developer shall remit

the increased financial security to the Township within thirty (30) days of the approval of the updated decommissioning security estimate by the Township.

(5) Decommissioning security estimates shall be subject to review and approval by the Township and the PSES Developer shall be responsible for administrative, legal, and engineering costs incurred by the municipality for such review.

(6) At no time shall the financial security be an amount less than $500,000.00.

(7) The decommissioning security may be in the form of cash, letter of credit, or an investment grade corporate guarantee rated BBB-/Baa3 or better by S&P, Moody's, or AM Best, as applicable.

(8) Prior to approval of any plan or permit for a PSES, the PSES Developer shall enter into a Decommissioning Agreement with the Township outlining the responsibility of the parties under this Agreement as to the decommissioning of the PSES.

s. *Environmental Protection*.

(1) All PSES must be set back fifty (50) feet from any area designated as a wetland, a FEMA Floodplain, or an area containing fifteen (15) percent slope or greater.

(2) All PSES shall be set back one hundred (100) feet from a property listed on, or eligible for listing on the National Register of Historic Places as designated by the State Historic Preservation Office of the National Park Service.

(3) In no case shall the solar project area occupy more than twenty (20) acres of Class I and Class II soils (as identified by USDA NRCS Web Soil Mapper) within the parcel boundary.

(4) The undeveloped portion of Class I and Class II soils shall be designed for agricultural use and adequate for maneuverability of typical farm equipment.

t. Ground mounted PSES shall be screened from adjoining residential uses or zones according to the requirements specified under Section 4.02 of this Ordinance.

u. PSES shall not be placed within any legal easement or right-of-way location or be placed within any stormwater conveyance system or in any other manner that would alter or impede stormwater runoff from collecting in a constructed storm water conveyance system.

v. *Security*.

(1) All ground mounted PSES shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate. The fence shall meet setback requirements noted in this section.

(2) A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence on the surrounding the PSES informing individuals of potential voltage hazards.

w. *Access*.

(1) A fifteen (15) foot minimum wide access road must be provided from a public Street into the site. All other design of the access road shall meet the requirements specified in the West Pennsboro Subdivision and Land Development Ordinance.

(2) A ten (10) foot minimum wide access aisleway shall be provided between the solar arrays to allow for maintenance and emergency vehicle access. The aisleway width shall be the distance measured between the bottom edge of a solar panel to the top edge of the solar panel directly across from it.

(3) If the PSES is exempt from stormwater requirements as specified in this section, vegetation must be maintained or replaced after maintenance and/or emergency use.

x. PSES shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority.

y. The Developer of a PSES shall provide the Township written confirmation that the public utility company to which the PSES will be connected has been informed of the customer's intent to install a grid connected system. The written confirmation shall include a statement of capacity and approval of the proposed connection.

z. *Roof and Wall Mounted PSES*.

(1) For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and adopted building code of the Municipality that the roof or wall is capable of holding the load imposed on the structure.

(2) PSES mounted on the roof or wall of any building shall be subject to the maximum height regulations of the underlying zoning district.

(3) The solar energy system Developer shall, at the request of the Township, provide information concerning the amount of energy generated by the solar energy system in the last twelve (12) months.

5. *Principal Wind Energy Systems (PWES)*.

An area of land or other area used for a renewable energy collection system principally used to convert and then store or transfer energy from the wind into usable forms of energy on a large, industrial scale for commercial, or utility purposes off-site from the PWES location. A PWES is designed as the primary use on a Lot, wherein the power generated is used primarily for off-site consumption. The following use regulations shall apply:

a. *Design and Installation*.

(1) Applications for PWES uses shall be subject to the requirements set forth below, as well as all other applicable state or federal regulations.

(2) The layout, design, and installation of a PWES shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), Det Norske Veritas, Germanischer Lloyd Wind Energies, the American Society of Testing and Materials (ASTM), or other pertinent certifying organizations and comply with all applicable Building and electrical codes of the Township. The manufacturer specifications shall be submitted as part of the application.

(3) Applicants shall submit a land development plan which shall be compliant with all the requirements of the West Pennsboro Township Subdivision and Land Development Ordinance.

(4) The Applicant shall provide sufficient documentation showing that the PWES shall comply with all applicable requirements of the Federal Aviation Administration (FAA) and the Pennsylvania Department of Transportation's (PennDOT) Bureau of Aviation (BOA).

(5) The PWES shall provide the Township written confirmation that the public utility company to which the PWES shall be connected has been informed of the intent to install a grid connected system and approved of such connection.

(6) *Visual Appearance*.

(a) All on-site utility, transmission lines, and cables shall be placed underground.

(b) The PWES shall be painted a non-reflective, flat color such as white, off white, or gray unless required to be colored differently from FAA or PennDOT Bureau of Aviation regulations.

(c) The PWES shall not be artificially lighted, except to the extent require by the Federal Aviation Administration or other applicable authority.

(d) The display of advertising is prohibited except for identification of the manufacturer of the system, facility Owner and operator.

(e) Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the PWES.

(f) Accessory structures and equipment associated with a PWES shall be screened pursuant to the standards specified in Section 4.02.

(7) *Warnings and Safety Measures*.

(a) A clearly visible warning Sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

(b) All access doors to a PWES including electrical equipment, out Buildings and all appurtenances thereto, shall be locked or fenced to prevent entry by non-authorized personnel.

(c) PWES shall not be climbable up to fifteen (15) feet above ground surface or the climbing apparatus shall be fully contained and locked within the tower Structure.

(d) Visible, reflective, colored objects, such as flags, reflectors or tape shall be placed on the anchor points of guy wires and along the guy wires up to a Height of ten (10) feet from the ground.

(e) The Applicant shall provide a copy of the project summary and site plan to local emergency services, including the Township Fire Chief.

(f) The PWES facility Owner and/or operator shall abide by all applicable local, state and federal fire code and emergency guidelines. The facility Owner and/or operator shall provide emergency services with a response plan.

b. *Zoning Requirements*. Notwithstanding other provisions of this Ordinance, the following zoning standards shall apply to PWES uses.

(1) *Lot Size*. The PWES shall be separated from each other by a minimum of 1.1 times the total Height of the highest wind turbine.

(2) *Setbacks*.

(a) The PWES shall be set back from the nearest property line a distance of not less than the normal setback requirements for the zoning district or its total Height, whichever is greater.

(b) The PWES shall be set back from a Building, on a non-participating landowner's property, not less than 1.5 times its total Height measured from the center of the wind turbine base to the nearest point on the foundation of the occupied Building.

(c) The PWES shall be set back from a Building on a participating landowner's property, not less than its total Height measured from the center of the wind turbine base to the nearest point of foundation of the occupied Building. Any operator/occupied Building used in connection with the development are exempt from this distance limit.

(d) The PWES shall be set back from the nearest public road Right-of-Way a distance of not less than one and one-half (1.5) times its total Height measured from the center of the wind turbine base to the nearest Right-of-Way line of the public road.

(e) Each PWES shall be set back from above-ground electric power lines, public telephone lines and television cable lines a distance of no less than 1.1 times its total Height. The setback distance shall be

measured from the center of the wind turbine generator base to the nearest point of such lines.

(f) All PWES shall be setback from any ridge a distance of not less than the wind turbine's total Height. For this provision, "ridge" shall be defined as the elongated crest or series of crests at the uppermost point of intersection between opposite slopes of a mountain and including all land lying between such point and an elevation two hundred fifty (250) feet below the elevation of such point.

(g) The PWES shall be set back a minimum of twenty-five hundred (2,500) feet from a Historic Resource, Historic Structure, or Historic Site; and Important Bird Areas as identified by Pennsylvania Audubon and at least five hundred (500) feet from identified wetlands. The setback distance shall be measured from the center of the wind turbine generator base to the nearest point on the foundation of an historic Building, Structure or resource, or the nearest property line of an historic district or site.

(i) Accessory Buildings, structures, and related equipment to the PWES shall comply with the Building setback requirements of the underlying zoning districts.

(3) *Height*.

(a) There shall be no specific Height limitation, so long as the total Height meets sound and set-back requirements, except as imposed by FAA regulations.

(b) The minimum Ground Clearance shall be twenty-five (25) feet.

(4) A PWES shall not be located on a Lot of record containing slopes equal to or exceeding twenty-five (25) percent on fifty (50) percent or more of the Lot of record. This standard shall apply to each Lot where a PWES extends across multiple Lots of record.

c. *Operational Standards*.

(1) *Use of Public Roads*.

(a) The Applicant shall identify all state and local public roads to be used within the Township to transport equipment and parts for construction, operation or maintenance of the PWES.

(b) The Township Engineer shall document public road conditions prior to construction of a PWES. The Engineer shall document road conditions within thirty (30) days after construction of the permitted project is complete, or as soon thereafter as weather may allow.

(c) Any road damage caused by the Applicant, facility Owner, operator, or contractors shall be promptly repaired to the Township's satisfaction at the expense of the Applicant and/or facility Owner.

(d) Every effort shall be made to use existing roads and logging roads. New deforestation and forest fragmentation shall be kept to a minimum.

(2) *Noise*.

(a) Audible sound from a PWES shall not exceed fifty-five (55) dBA, as measured at the property line between participating and non-participating landowners.

(b) Noise limits may be exceeded during short-term events such as utility outages and/or severe windstorms.

(c) Methods for measuring and reporting acoustic emissions from a PWES shall be equal to or exceed the minimum standards for precision described in American Wind Energy Association (AWEA) Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier, as amended.

(3) A Wind Turbine shall not cause vibrations through the ground which are perceptible beyond the property line of the parcel on which it is located.

(4) *Shadow Flicker*.

(a) The PWES shall not cause shadow flicker on any occupied Building on a non-participating landowner's property.

(b) The PWES shall be designed in such a manner as to minimize shadow flicker on a roadway.

(c) The facility Owner and operator shall conduct, at the Applicant's expense, a modeling study demonstrating that shadow flicker shall not occur on any occupied Building on a non-participating property.

(5) *Public Inquiries and Complaints*.

(a) The PWES facility Owner and/or operator shall maintain a phone number that is posted on-site of the PWES facility and identify a responsible Person for the public to contact with inquiries and complaints throughout the life of the project.

(b) The PWES facility Owner and/or operator shall respond to the public's inquiries and complaints.

(6) The PWES facility Owner and/or operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least $1 million per occurrence and $1 million in the aggregate. A certificate of insurance shall be made available to the Township upon request.

(7) *Decommissioning*.

(a) The PWES facility Owner and/or operator shall, at his expense, complete decommissioning of the PWES and all related improvements within twelve (12) months of the date when the use of the particular a PWES has been discontinued or abandoned by the facility Owner and/or operator, or upon termination of the useful life of same. The PWES shall be presumed to be discontinued or abandoned if no electricity is generated by such a PWES for a continuous period of twelve (12) months.

(b) Decommissioning shall include removal of wind turbines, Buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and any other associated facilities.

(c) Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(d) An independent and certified Registered Design Professional shall be retained to estimate the cost of decommissioning without regard to salvage value of the equipment. Said estimates shall be submitted to Township after the first year of operation and every fifth (5th) year thereafter.

(e) The PWES facility Owner and/or operator shall post and maintain decommissioning funds in an amount of one hundred ten (110) percent of the identified decommissioning costs, as adjusted over time. The decommissioning funds shall be posted and maintained with a bonding company or Federal or Commonwealth chartered lending institution chosen by the facility Owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct business within the Commonwealth and is approved by the Township.

(f) Decommissioning funds may be in form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the Township.

(g) If the PWES facility Owner and/or operator fails to complete decommissioning within the period prescribed above, then the landowner shall have six (6) months to complete the decommissioning.

(h) If the PWES facility Owner and/or operator, nor the landowner complete decommissioning within the periods described above, then the Township may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a participating landowner agreement to the Township shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Township may take such action as necessary to implement the decommissioning plan.

(i) The escrow agent shall release the decommissioning funds when the facility Owner or operator has demonstrated and the Township concurs that decommissioning has been satisfactorily completed, or upon written approval of the Township in order to implement the decommissioning plan.

d. *Application Requirements*. A Conditional Use application for a PWES shall include the following:

(1) A narrative describing the proposed PWES, including an overview of the project, the project location, the approximate generating capacity of the PWES, the approximate number, representative types and Height or range of heights of the PWES to be constructed including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.

(2) An affidavit or similar evidence of agreement between the landowner and the PWES facility Owner and/or operator demonstrating that the Owner and/or operator has the permission of the property Owner to apply for necessary permits for construction and the operation of the PWES and setting forth the Applicant's and property Owner's name, address and phone number.

(3) Identification of the properties on which the proposed a PWES shall be located, and the properties adjacent to where the PWES shall be located.

(4) A site plan showing the planned location of each PWES, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the PWES to the substation(s), ancillary equipment, Buildings, and structures, including permanent meteorological towers, associated transmission lines and layout of all structures within the geographical boundaries of any applicable setback.

(5) A noise study in accordance with Subparagraph 5.c.(2) above.

(6) A shadow flicker study in accordance with Subparagraph 5.c.(4) above.

(7) A Decommissioning Plan sufficient to demonstrate compliance with Subparagraph 5.c.(7) above.

(8) A wind resource study shall be submitted documenting wind resources at the site. The study shall include but is not limited to data showing average wind speeds capable of generating electricity and the available capacity to transmit the electricity into the power grid.

(9) Other relevant studies, reports, certifications and approvals as required by this Ordinance or as may be requested by the Township to ensure compliance with this Ordinance.

(10) Throughout the permit process, the Applicant shall promptly notify the Township of any changes to the information contained in the conditional use/special exception permit application. Changes to the pending

application that do not materially alter the initial site plan may be adopted without a renewed public hearing.

6. *Transit Bus Stops*.

Uses include both sheltered and non-sheltered infrastructure facilities that provide passengers safe access to both fixed-route and demand responsive public transportation services. The following use regulations shall apply:

a. Bus stop infrastructure, including ADA loading pads, bus passenger benches, and bus shelters, as well as bus stop location Signs and bus stop passenger information Signs, shall be permitted by right in all zoning districts and shall be considered an Accessory Use/Structure that can stand alone without the accompanying Principal Use.

b. Bus stop infrastructure shall be exempt from minimum Lot size, Open Space, yards, and setback requirements of the governing zoning district(s).

c. The location and design of the bus stop infrastructure shall be reviewed and approved by the applicable transit agency and Township. The transit agency shall provide written documentation certifying that a location is an existing or potential future bus stop.

d. Whenever an ADA loading pad, bench for a bus stop, and/or bus shelter is provided, the applicable off-street parking requirements for the Lot's Principal Use may be reduced by one or more vehicular parking space(s) for each bus stop location.

e. Bus stop location Signs and bus stop passenger information Signs installed and maintained by the transit agency shall be permitted within the public Right-of-Way and on private property and shall be exempt from the Sign requirements specified under Section 5 of this Ordinance.

7. *Transit Facility*.

Any motor bus, rapid transit, or other ground transportation system having as its primary purpose the regularly scheduled movement of passengers and goods through fixed route, shared ride, non-medical assistance, or medical assistance transportation services between locations within the territorial boundaries of a regional transit authority, including all Rights-of-Way, rolling stock, equipment, machinery, terminals, buildings, administration and maintenance and repair facilities, and supporting parking energy facilities, that are reasonably necessary for the comfort and accommodation of the users of transit facilities; or any combination of the foregoing.

8. *Wireless Communications Facilities (WCF)*.

An antenna facility or a wireless support Structure that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services. The following use regulations shall apply:

a. *Purpose*.

(1) The purpose of these standards is to govern the use, construction, and location of wireless communications facilities in recognition of the nature of

wireless communications systems and the Federal Telecommunications Act. These regulations are intended to:

(a) Accommodate the need for wireless communications facilities to ensure the provision for necessary services while preserving the character of the Township;

(b) Minimize the adverse visual effects and the number of such facilities through proper design, locating, screening, material, color, and finish and by requiring that competing providers of wireless communications services collocate their telecommunication and wireless communications antennas and related facilities;

(c) Address new wireless technologies, including, but not limited to, distributed antenna systems, data collection units, and other WCFs;

(d) Ensure the structural integrity of wireless communications facilities through compliance with applicable industry standards and regulations; and

(e) Promote the health, safety, and welfare of the residents and property owners within the Township.

b. *Regulations Applicable to All Wireless Communications Facilities*. The following regulations shall apply to all Wireless Communications Facilities (WCFs).

(1) Wireless communications facilities shall be permitted within the Township as follows:

(a) Tower-Based Wireless Communications Facilities shall be permitted as specified in Table 3.01, Table of Permitted Uses, provided that the proposed Wireless Communications Facilities comply with the applicable requirements of this Ordinance.

(b) Small Wireless Communications Facilities Inside Public Rights-of-Way shall be permitted as specified in Table 3.01, Table of Permitted Uses, provided that the proposed Wireless Communications Facilities comply with the applicable requirements of this Ordinance.

(c) Small Wireless Communications Facilities Outside Public Rights-of-Way shall be permitted as specified in Table 3.01, Table of Permitted Uses, provided that the proposed Wireless Communications Facilities comply with the applicable requirements of this Ordinance.

(2) *Standard of Care*. All WCFs shall meet all applicable standards and provisions of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate wireless communications facilities, the latest National Electrical Safety Code (NESC), American National Standards Institute (ANSI) Code, and the structural standards of the American Association of State Highway and Transportation Officials or any other industry standard applicable to the Structure. In case of conflict,

the most stringent requirements shall prevail. All necessary certifications shall be obtained by the WCF Applicant and provided to the Township.

(3) *Engineer Signature*. All plans and drawings included in an application for a WCF shall contain a seal and signature of a Registered Design Professional.

(4) *Eligible Facilities Requests*.

(a) WCF Applicants proposing the Modification or Replacement of an existing WCF shall be required only to obtain a zoning permit from the Township Zoning Officer. In order to be considered for such a permit, the WCF Applicant shall submit a permit application to the Township Zoning Officer in accordance with applicable permit policies and procedures. Such permit application shall clearly state that the proposed Modification or Replacement constitutes an Eligible Facilities Request pursuant to the requirements of 47 CFR § 1.6100. The permit application shall clearly detail all dimensional changes being made to the WCF and Wireless Support Structure and certify that such changes are in compliance with the requirements of 47 CFR § 1.6100.

(5) *Substantial Change*. Any Substantial Change to a WCF shall be treated as an application for a new WCF in accordance with this Ordinance and applicable FCC rules and orders. Substantial Change shall be defined according to Section 6409(a) of the Spectrum Act, aka, Middle Class Tax Relief and Job Creation Act of 2012.

(6) *Aviation Safety*. All WCFs shall comply with all federal and state laws and regulations concerning aviation safety.

(7) *Public Safety Communications*. WCFs shall not interfere with public safety communications, or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.

(8) *Radio Frequency Emissions*. A WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended. The WCF Applicant shall submit proof of compliance with all applicable standards relating to radio frequency emissions as part of any complete WCF application.

(9) *Noise*. WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and as stipulated in Section 4.15, Performance Standards, of this Ordinance, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only as permitted by the Township.

(10) *Non-conforming Wireless Support Structures*. WCFs shall be permitted to collocate upon existing non-conforming Wireless Support Structures. Collocation of WCFs upon existing Wireless Support Structures is

encouraged even if the Wireless Support Structure is non-conforming as to use within a zoning district.

(11) *Permit Fees*. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a WCF, as well as related inspection, monitoring, and related costs. Such permit fees shall be established by the Township fee schedule.

(12) *Indemnification*. Each Person that owns or operates a WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees, and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the WCF. Each Person that owns or operates a WCF shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death or property damage, was caused by the construction, installation, operation, maintenance, or removal of a WCF. The obligation to indemnify, hold harmless, and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs, and all other costs of indemnification.

(13) *Non-commercial Usage Exemption*. Township residents utilizing satellite dishes, citizen and/or band radios, and Antennas for the purpose of maintaining television, phone, and/or internet connections at their residences shall be exempt from the regulations enumerated in this Article.

(14) *Abandonment*. In the event that the use of a WCF is to be discontinued, the Owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. A WCF not operated for a period of six (6) months shall be considered abandoned. Discontinued or abandoned WCFs, or portions of WCFs, shall be removed as follows:

(a) All abandoned or unused WCFs and Accessory Equipment shall be removed within ninety (90) days of the cessation of operations at the site or receipt of notice that the WCF has been deemed abandoned by the Township unless a time extension is approved by the Township.

(b) If the WCF or Accessory Equipment is not removed within ninety (90) days of the cessation of operations at a site or receipt of notice that the WCF has been deemed abandoned by the Township, or within any longer period approved by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the Owner of the WCF.

(15) *Maintenance*. The following maintenance requirements shall apply:

(a) Structures and facilities deployed by a wireless provider shall be constructed, maintained, and located in a manner as to not obstruct, endanger or hinder the usual travel or public safety on a Right-of-Way, damage or interfere with other utility facilities located within a Right-of-Way or interfere with the other utility's use of the utility's facilities located or to be located within the Right-of-Way.

(b) The construction and maintenance of structures and facilities by the wireless provider shall comply with the 2017 National Electrical Safety Code and all applicable laws, ordinances and regulations for the protection of underground and overhead utility facilities.

(c) An Applicant or the Applicant's affiliate shall ensure that a contractor or subcontractor performing construction, reconstruction, demolition, repair or maintenance work on a small wireless facility deployed meets and attests to all of the following requirements:

i. Maintain all valid licenses, registrations or certificates required by the Federal Government, the Commonwealth or a local government entity that is necessary to do business or perform applicable work.

ii. Maintain compliance with the Workers' Compensation Act, 77 P.S. § 1, *et seq.*, the Unemployment Compensation Law, 43 P.S. § 751, *et seq.*, and bonding and liability insurance requirements as specified in the contract for the project.

iii. Has not defaulted on a project, declared bankruptcy, been debarred or suspended on a project by the Federal Government, the Commonwealth or a local government entity within the previous three years.

iv. Has not been convicted of a misdemeanor or felony relating to the performance or operation of the business of the contractor or subcontractor within the previous 10 years.

v. Has completed a minimum of the United States Occupational Safety and Health Administration's 10-hour safety training course or similar training sufficient to prepare workers for any hazards that may be encountered during their work on the small wireless facility.

(16) *Landscaping*. The following landscaping shall be required to screen as much of the support Structure as possible, the fence surrounding the support Structure, and any other ground-level features (such as a Building), and in general soften the appearance of the personal wireless service facility site. The Township Board of Supervisors may permit any combination of existing vegetation, topography, walls, decorative fences, or other features instead of landscaping if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing Structure and other equipment is housed inside an existing Structure, landscaping shall not be required.

(a) An evergreen screen shall be required to surround the site. The screen can be either a hedge (planted three (3) feet on center maximum) or a row of evergreen trees (planted ten (10) feet on center maximum). The evergreen screen shall be a minimum height of six (6) feet at planting and shall grow to a minimum of fifteen (15) feet at maturity.

(b) In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

c. *Small Wireless Communications Facilities*. The following regulations shall apply to Small Wireless Communications Facilities:

(1) *Application Requirements*.

(a) Small WCFs inside the public Rights-of-Way are a permitted use in all Township zoning districts, subject to the requirements of this Article and generally applicable permitting as required by the Township. Applications for Small WCFs shall be submitted to the Township Zoning Officer.

(b) Small WCFs outside the public Rights-of-Way are permitted by right in all Township zoning districts except residential zoning districts, subject to the requirements of this Article and generally applicable permitting as required by the Township. Applications for Small WCFs shall be submitted to the Township Zoning Officer.

(c) An application for a Small WCF shall include the following:

i. Documentation that includes construction and engineering drawings demonstrating compliance with the requirements of this Article;

ii. Self-certification that the filing and approval of the application is required by the WCF Applicant to provide additional capacity or coverage for wireless services;

iii. Documentation demonstrating compliance with the requirements of the *Small Wireless Communications Facility Design Manual* included as Appendix A to this Ordinance.

iv. If the Small WCF shall require the installation of a new Wireless Support Structure, documentation showing that the WCF Applicant has made a good faith determination that it cannot meet the service reliability and functional objectives of the application by Collocating on an existing Wireless Support Structure. Such determination shall be based on whether the WCF Applicant can meet the service objectives of the application by collocating on an existing Wireless Support Structure on which:

[1] The WCF Applicant has the right to Collocation;

[2] The Collocation is Technically Feasible and would not impose substantial additional cost; and

[3] The Collocation would not obstruct or hinder travel or have a negative impact on public safety.

v. Documentation showing that the Small WCF does not materially interfere with the safe operation of traffic control equipment, sight lines, or clear zones for transportation or pedestrians or compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) or similar Federal or State standards regarding pedestrian access or movement; and

vi. A report prepared by a Registered Design Professional, which shows that the Small WCF shall comply with all applicable FCC regulations, including but not limited to those relating to radio frequency emissions.

(2) *Applications Not Required*. The Township shall not require an application for:

(a) Routine maintenance or repair work;

(b) The replacement of Small WCFs with Small WCFs that are substantially similar or the same size or smaller and still qualify as a Small WCF; or

(c) The installation, placement, maintenance, operation, or replacement of Micro Wireless Facilities that are strung on cables between existing utility poles by or for a WCF Applicant that is authorized to occupy the ROW, in compliance with the National Electrical Safety Code.

(3) *Location and Development Standards*.

(a) All Small WCFs shall comply with the applicable requirements of the Americans with Disabilities Act and the West Pennsboro Township Subdivision and Land Development Ordinance.

(b) No Small WCF shall be located on a private Lot in a residential district or on any single-family detached residences, single-family attached residences, semi-detached residences, duplexes, or any other residential Structure.

(c) All Small WCFs shall be installed and maintained so as not to obstruct nor hinder travel or public safety within the ROW.

(4) *Design Standards*. All Small WCFs in the Township shall comply with the requirements of the Township *Small Wireless Communications Facility Design Manual* included in Appendix A to this Ordinance. A copy of such shall be kept on file at the Township.

(5) *Time, Place, and Manner*. The Township shall determine the time, place, and manner of construction, maintenance, repair, and/or removal of all Small WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.

(6) *Private Property*. If a Small WCF is to be located outside of the public ROW, or if any part of a Small WCF located in the public ROW shall encroach upon private property, the WCF Applicant shall provide the Township Zoning Officer with evidence that the Owner of such private property has granted permission for the construction of the Small WCF.

(7) *Minimum Setbacks*. The minimum distance between the base of a Small WCF, located outside of the public ROW, that requires the installation of a new Wireless Support Structure and any adjoining property line or Street ROW line shall be equal to one hundred (100) percent of the Height of the Small WCF.

(8) *Historic Buildings*. No Small WCF may be located within one hundred (100) feet of any property, or on a Building or Structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, located within a historic district, or is included in the official historic structures list maintained by the Township.

(9) *Third-Party Property*. Where a Small WCF is proposed for Collocation on a Wireless Support Structure, located on private property, or other property that is not owned by the WCF Applicant, the WCF Applicant shall present evidence to the Zoning Officer that the Owner of the Wireless Support Structure has authorized construction of the proposed Small WCF.

(10) *Graffiti*. Any graffiti on a Small WCF, including the Wireless Support Structure and any Accessory Equipment, shall be removed at the sole expense of the Owner within thirty (30) days of notification by the Township.

(11) *Timing of Approval*.

(a) Within fifteen (15) calendar days of the date that an application for a Small WCF is filed with the Township Zoning Officer, the Township shall notify the WCF Applicant in writing of any information that may be required to complete such application.

(b) Within sixty (60) days of receipt of an application for Collocation of a Small WCF on a pre-existing Wireless Support Structure, and subject to applicable tolling procedures as established by federal law, the Township Zoning Officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.

(c) Within ninety (90) days of receipt of an application for a Small WCF requiring the installation of a new or replacement Wireless Support Structure, and subject to applicable tolling procedures as established by federal law, the Township Zoning Officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.

(d) If the Township denies an application for a Small WCF, the Township shall provide the WCF Applicant with written documentation of the basis for denial within five (5) business days of the denial.

(e) The WCF Applicant may cure the deficiencies identified by the Township and resubmit the application within thirty (30) days of receiving the written basis for the denial without being required to pay an additional application fee. The Township shall approve or deny the revised application within thirty (30) days of the application being resubmitted for review.

(12) *Consolidated Application*.

(a) A WCF Applicant may submit a consolidated application for Collocation of multiple Small WCFs. The consolidated application shall not exceed twenty (20) Small WCFs.

(b) A WCF Applicant may not submit more than one consolidated application in a single thirty (30) day period.

(c) If a WCF Applicant submits more than one consolidated application in a forty-five (45) day period, the applicable processing deadline shall be extended fifteen (15) days in addition to the processing deadline specified in Subparagraph (11) above.

(13) *Repair and Restoration*.

(a) The WCF Applicant shall repair all damage to the ROW or any other land so disturbed, directly caused by the activities of the WCF Applicant or the WCF Applicant's contractors and return the ROW to as good of condition as it existed prior to any work being done in the ROW by the WCF Applicant or the WCF Applicant's contractors.

(b) If the WCF Applicant fails to make the repairs required by the Township within thirty (30) days after written notice, the Township may perform those repairs and charge the WCF Applicant the reasonable, documented cost of the repairs plus a penalty of $500.

(c) The Township may suspend the ability of the WCF Applicant to receive new permits until the WCF Applicant has paid the amount assessed for the repair costs and the assessed penalty.

(14) *Relocation or Removal of Facilities*.

(a) Within sixty (60) days of suspension or revocation of a permit due to noncompliance with the requirements of the Township, the WCF Applicant shall remove the Small WCF and any Accessory Equipment, including the Wireless Support Structure, if the WCF

Applicant's WCF(s) are the only facilities on the Wireless Support Structure.

(b) Within ninety (90) days of the end of a permit term, the WCF Applicant shall remove the Small WCF and any Accessory Equipment, including the Wireless Support Structure, if the WCF Applicant's WCF(s) are the only facilities on the Wireless Support Structure.

(c) Following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, the WCF Applicant shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Small WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change, or alteration is reasonably necessary under the following circumstances:

i. The construction, repair, maintenance, or installation of any Township or other public improvement in the ROW;

ii. The operations of the Township or other governmental entity in the ROW;

iii. Vacation of a Street or road or the release of a utility easement; or

iv. An emergency as determined by the Township.

(15) *Reimbursement for ROW Use*. In addition to permit fees as described in this section, every Small WCF in the ROW is subject to the right to fix annually a fair and reasonable fee as stipulated in the Township's adopted Fee Schedule to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs, including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising, and other ROW management activities by the Township. The Owner of each Small WCF shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. Such fees shall comply with the applicable requirements of the Federal Communications Commission.

d. *Tower-Based Wireless Communications Facilities*. The following regulations shall apply to all Tower-Based Wireless Communications Facilities.

(1) *Small WCF Exemption*. Tower-Based WCFs that meet the definition of a Small WCF shall be exempt from the requirements of this Article. Such Small WCFs shall be subject only to applicable permitting and the requirements of Subparagraphs (H)2.b and (H)2.e.

(2) *Conditional Use Required*. Tower-Based WCFs are permitted outside the public Rights-of-Way as a Conditional Use and at a Height necessary to

satisfy their function in the WCF Applicant's wireless communications system, subject to the requirements of this Article.

(a) Upon submission of an application for a Tower-Based WCF and the scheduling of the public hearing upon the application, the WCF Applicant shall send via First Class Mail notice to all owners of every property within five hundred (500) feet of the proposed facility, advising of the subject matter and date of such hearing. Such notice shall be sent at least ten (10) days in advance of the scheduled public hearing. The WCF Applicant shall provide proof of the notification to the Zoning Hearing Board along with the list of return receipts received.

(b) The Conditional Use application shall include a site plan, drawn to scale, showing property boundaries, power location, total Height of the Tower-Based WCF, guy wires and anchors, existing structures, elevation drawings, typical design of proposed structures, parking, fences, landscaping and existing uses on adjacent properties.

(c) The Conditional Use application shall be accompanied by a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the WCF Applicant, the power in watts at which the WCF Applicant transmits, and any relevant related tests conducted by the WCF Applicant in determining the need for the proposed site and installation.

(d) The Conditional Use application shall include evidence that a significant gap in wireless coverage or capacity exists in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or nonexistence of a gap in wireless coverage shall be a factor in the Zoning Hearing Board's decision on an application for approval of Tower-Based WCF.

(e) Where the Tower-Based WCF is located on a property that is not owned by the WCF Applicant, the Special Exception application shall include evidence to the Zoning Hearing Board that the Owner of the property has granted an easement or other property right, if necessary, for the proposed WCF and any vehicular access that shall be provided to the facility.

(f) The Conditional Use application shall include a written certification by a structural engineer licensed in the Commonwealth of Pennsylvania of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the Structure.

(g) The Conditional Use application shall include evidence demonstrating that the proposed Tower-Based WCF cannot be accommodated on an existing Wireless Support Structure. The Zoning Hearing Board may deny an application to construct a new

Tower-Based WCF if the WCF Applicant has not made a good faith effort to mount the Antenna(s) on an existing Wireless Support Structure. The WCF Applicant shall demonstrate that it contacted the owners of all potentially feasible structures, Buildings, and towers within a thousand (1,000) foot radius of the site proposed, sought permission to install an Antenna on those structures, Buildings, and towers, and was denied for one of the following reasons:

i. The proposed WCF would exceed the structural capacity of the existing Building, Structure, or tower, and its reinforcement cannot be accomplished at a reasonable cost.

ii. The WCF would cause radio frequency interference with other existing equipment for that existing Building, Structure, or tower, and the interference cannot be prevented at a reasonable cost.

iii. Such existing Buildings, structures, or towers do not have adequate location, space, access, or Height to accommodate the proposed equipment or to allow it to perform its intended function.

iv. A reasonable agreement could not be reached with the Owner of such Building, Structure, or tower.

(h) The Conditional Use application shall also be accompanied by documentation demonstrating that the proposed Tower-Based WCF complies with all applicable provisions of this Ordinance.

(3) *Development Regulations*.

(a) Tower-Based WCFs shall not be located in or within seventy-five (75) feet of an area in which all utilities are located underground.

(b) *Sole use on a Lot*. A Tower-Based WCF may be permitted as the sole use on a Lot, provided the Tower-Based WCF and underlying Lot comply with all applicable requirements of this Ordinance.

(c) *Combined with Another Use*. A Tower-Based WCF may be permitted on a property with an existing use, except residential, subject to the following conditions:

i. The existing use on the property may be any permitted use in the applicable district and need not be affiliated with the WCF.

ii. *Minimum Lot Area*. The minimum Lot shall comply with the requirements for the applicable zoning district and shall be the area needed to accommodate the Tower-Based WCF and Accessory Equipment, any guy wires, the equipment Building, security fence, and applicable screening.

(4) *Design Regulations*.

(a) *Anti-Climbing Device*. A Tower-Based WCF shall be equipped with an anti-climbing device, as approved by the manufacturer.

(b) *Minimum Setbacks*. The minimum distance between the base of a Tower-Based WCF and any adjoining property line or Street ROW line shall be equal to one hundred (100) percent of the Height of the Tower-Based WCF. The underlying Lot shall be large enough to accommodate related equipment, stormwater runoff mechanisms, and all other features typically found within the immediate area of a telecommunications tower.

(c) *Surrounding Environs*.

i. The WCF Applicant shall ensure that the existing vegetation, trees, and shrubs located within proximity to the WCF Structure shall be preserved.

(d) *Fence/Screen*.

i. A security fence with a maximum Height of eight (8) feet, with openings no greater than four (4) inches, shall completely surround any Tower-Based WCF, as well as guy wires or any Building housing Accessory Equipment.

ii. The WCF Applicant shall comply with the screening requirements as specified Section 4.02 of this Ordinance.

(e) *Accessory Equipment*.

i. Ground-mounted Accessory Equipment associated or connected with a Tower-Based WCF shall not be located within fifty (50) feet of a Lot in a residential use.

ii Accessory Equipment associated with a Tower-Based WCF shall be placed underground or screened from public view. All ground-mounted Accessory Equipment, utility Buildings, and accessory structures shall be architecturally designed to be concealed from public view to the maximum extent possible and be compatible with the architecture of surrounding Buildings, structures, or landscape.

iii Either one single-story wireless communications equipment Building not exceeding five hundred (500) square feet in area or its equivalent may be permitted for each unrelated company sharing Antenna space on the Tower-Based WCF.

(5) *Additional Antennas*. As a condition of approval for all Tower-Based WCFs, the WCF Applicant shall provide the Zoning Hearing Board with a written commitment that it shall allow other service providers to Collocate WCFs

on the Tower-Based WCF where technically and economically feasible. To the extent permissible under state and federal law, the Owner of a Tower-Based WCF shall not install any additional WCFs without complying with the applicable requirements of this Article.

(6) *FCC License*. Each Person that owns or operates a Tower-Based WCF shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.

(7) *Signs*. All Tower-Based WCFs shall post a Sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the WCF shall be those required by the FCC or any other federal or state agency.

(8) *Lighting*. No Tower-Based WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The WCF Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township Secretary.

(9) *Storage*. The storage of unused equipment, materials, or supplies is prohibited on any Tower-Based WCF site.

(10) *Repair of Non-Conforming Tower-Based WCF*. Non-conforming Tower-Based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location but shall otherwise comply with the terms and conditions of this Article. The Collocation of Antennas is permitted on non-conforming structures.

(11) *Insurance*. Each Person that owns or operates a Tower-Based WCF shall provide the Township Zoning Officer with a certificate of insurance evidencing general liability coverage in the minimum amount of $5,000,000 per occurrence and property damage coverage in the minimum amount of $5,000,000 per occurrence covering the Tower-Based WCF.

(I) *Industrial Uses*.

A category of Uses for businesses involving assembly, production, storing, transferring and disposal of goods or products, and which may also include associated facilities such as offices, maintenance facilities, and fuel pumps and both indoor and outdoor activities and storage of goods. In addition to the supplemental use regulations specified for each of the listed uses below, the Applicant shall provide a detailed written description of the proposed use in each of the following topics:

1. The nature of on-site processing operations, the materials used in the process, the products produced, and the generation and methods of disposal for any wastes and/or by-products. In addition, the Applicant shall furnish evidence that the storage and disposal of materials shall be accomplished in a manner that complies with all applicable state and federal regulations.

2. The general scale of the operation in terms of its specific floor space requirements for each step of the industrial process, the total number of employees on each shift, and an overall needed site size.

3. Identify any environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, stormwater, solid waste, etc.) and specific measures employed to mitigate or eliminate negative impacts. The Applicant shall furnish expert evidence that the impacts generated by the proposed use fall within acceptable levels as regulated by applicable laws and ordinances, including but not limited to those administered and enforced by the U.S. Environmental Protection Agency and PA DEP.

4. A Traffic Impact Study, as required by the West Pennsboro Township Subdivision and Land Development Ordinance, shall be prepared for all proposed Industrial Uses (except for Craftsman Industrial Uses) pursuant to the requirements specified by the Township Engineer.

The Zoning Officer may request additional information to ensure proper evaluation of such application. Such information may include ventilation plans, materials characteristics, drainage plans, waste disposal plans, and chemical disposition plans.

1. *Automotive Dismantler and Recycler*.

Any establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles, or motor parts, or both. The following use regulations shall apply.

a. Minimum Lot Area shall be ten (10) acres.

b. The outdoor area devoted to the storage of Junk shall be completely enclosed by an eight (8) foot high opaque fence which shall be set back at least fifty (50) feet from all property lines and one hundred (100) feet from residentially zoned or existing residential properties.

c. The setback area between the fence and the Lot lines shall be kept free of weeds and all scrub growth.

d. All completely enclosed Buildings used to store Junk shall be set back at least fifty (50) feet from all property lines.

e. No material may be stored or stacked so that it is visible from adjoining properties and roads.

f. The operation shall be licensed pursuant to Title 67, PA Code, Ordinance 451, Control of Junkyards and Automotive Dismantlers and Recyclers and obtain and maintain all applicable permits.

g. All junk shall be stored or arranged to permit access to firefighting equipment and to prevent the accumulation of water, and with no Junk piled to a Height greater than eight feet.

h. No oil, grease, tires, gasoline, or other similar material shall be burned at any time, except the enclosed burning of used motor oils for indoor heating purposes is permitted

i. Any Automotive Dismantler and Recycler or Junkyard shall be maintained in such a manner as to cause no public or private nuisance, not to cause any offensive or

noxious sounds or odors, nor to the breeding or harboring of rats, flies, mosquitoes, or other vectors.

j. No Automotive Dismantler and Recycler or Junkyard shall be located on land with a slope in excess of five (5) percent.

k. All junked vehicles shall be emptied of fuel, oil, and other liquids and batteries.

2. *Brewery, Distillery, Winery*.

A facility for which the primary use is the production, packaging, and sampling of alcoholic beverages – including beer, wine, cider, mead and distilled liquors for retail or wholesale distribution, for sale or consumption on- or off-premises, and which produces more than 15,000 gallons or more of such beverages per year. The Brewery, Distillery, Winery shall be licensed by the Pennsylvania Liquor Control Board and any successor agency of the Commonwealth. The additional supplemental regulation apply:

a. *Minimum Lot Area*. Two (2) acres.

b. Identify the nature of the on-site operations, the materials used in the process, the products produced, and the generation and methods for disposal of any wastes and/or by-products. In addition, the Applicant shall furnish evidence that the storage and disposal of materials shall be accomplished in a manner that complies with state and federal regulations.

c. Identify any environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, stormwater, solid waste, etc.) and specific measures employed to mitigate or eliminate negative impacts. The Applicant shall provide evidence that the impacts generated by the proposed use fall within acceptable levels regulated by applicable laws and ordinances.

3. *Craftsman Industrial*.

A category of industrial uses that includes a showroom or small retail outlet and production space, and involves small scale production, assembly, and/or repair with no noxious by-products. Craftsman Industrial includes such Uses as those found in Table 3.06, Typical Craftsman Industrial Uses. This Use may also include associated facilities such as offices and accessory on-site storage.

Table 3.06, Typical Craftsman Industrial Uses.

Apparel and Finished Fabric Products	Jewelry, Watches, Clocks, and Leather Products (no tanning)
Botanical Products	Meat and Fish Products, no processing
Brooms and Brushes	Musical Instruments and Articles
Canning and Preserving Food	Pottery, Ceramics, and Related Products
Commercial Scale Copying and Printing	Printing, Publishing and Allied Industries
Cut Stone and Cast Stone	Shoes and Boots
Electronics Assembly	Signs and Advertising
Electrical Fixtures	Silverware

Engraving	Smithing
Fabricated Metal Products	Taxidermy (with incidental tanning)
Film Making	Textile, Fabric, Cloth
Firearms and Ammunition	Toys and Athletic Goods
Furniture and Fixtures	Upholstery
Glass	Woodworking
Household Textiles	

4. *Data Processing Center*.

A facility containing one or more large-scale computer systems used for data storage and processing for off-site users. Typical supporting equipment includes back-up batteries and power generators, cooling units, fire suppression systems, water storge and enhanced security features. A Water Cooling and/or Storage Systems may be permitted as an Accessory Use. The following supplemental use regulations shall apply:

a. *Bulk and Area Regulations*. The following bulk and area regulations shall apply and prevail over principal zoning district's bulk and area standards specified in Article 2 of this Ordinance:

(1) *Minimum Lot Size*. Twenty-five (25) acres.

(2) *Minimum Lot Width*. Two hundred (200) feet.

(3) *Maximum Lot Coverage*. Seventy (70) percent.

(4) *Maximum Impervious Coverage*. Seventy (70) percent.

(5) *Minimum Yard Setbacks*.

(a) *Front Yard*: Thirty-five (35) feet.

(b) *Side Yard*: Thirty-five (35) feet.

(c) *Rear Yard*. Thirty-five (35) feet.

(6) *Maximum Building Height*. Seventy-five (75) feet.

b. *Required Utilities*. Public water and public sewer shall be required.

c. *Frontage and Access*. Data Centers shall have frontage on and direct vehicular access to an Minor Arterial or Major Collector Street. Vehicle access shall be provided pursuant to the requirements specified in the West Hanover Township Subdivision and Land Development Ordinance.

d. *Traffic Impact Study*. A traffic impact study prepared by a Registered Design Professional pursuant to the requirements specified under the Middlesex Township Subdivision and Land Development Ordinance shall be reviewed and approved by the Township Engineer.

e. *Water Feasibility Study*. A water feasibility study prepared by a qualified professional shall be provided with the zoning permit application. The purpose of the study will be to determine if there is an adequate supply of water for the proposed data center and to estimate the impact of the data center on existing public system and/or wells in the vicinity. No data center shall be approved without sufficient water and/or for a use that poses adverse impact on existing wells in the vicinity. If the source is from a municipal system, the applicant shall include documentation that the public authority will supply the water needed. A water feasibility study shall include the following minimum information:

(1) Calculations of the projected water needs.

(2) A geologic map of the area with a radius of at least one mile from the site.

(3) The location of all existing and proposed wells within 1,000 feet of the site, with a notation of the capacity of all high-yield wells.

(4) The location of all streams within 1,000 feet of the site and all known point sources of pollution.

(5) Based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined.

(6) A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table.

(7) Identification of how water will be recycled or released into surrounding water bodies

(8) A statement of the qualifications and the signature(s) of the person(s) preparing the study

(9) The applicant shall provide proof of review and approval from the Susquehanna River Basin Commission (SRBC) for projects that have:

(a) Water withdrawals of 100,000 gallons per day (gpd) or more over a 30-day average from any source or combination of sources within the Susquehanna River Basin.

(b) Any consumptive water use of 20,000 gpd or more over a 30-day average from any water source.

f. *Electric*. The applicant should provide an interconnection agreement from the electric service provider indicating that capacity is available, and the data center will be served. Known impacts on electric rates or availability for others uses directly attributable to the data center project should be noted.

g. *Noise*. A noise study shall be performed and included in the application. The noise study shall be performed by an independent noise study expert and paid for by the Applicant. Noise from a Data Center shall not exceed 70 dBA, as measured at the property line. This requirement does not apply during a time of power outage.

5. *Junkyards*.

Any outdoor establishment, place of business, or activity which is maintained, used, or operated for storing, keeping, buying or selling Junk; for the maintenance or operation of a garbage dump, sanitary landfill or scrap metal processor, or for the storage of ten or more junked vehicles. The performance standards specified under Subparagraph (I)., Automotive Dismantler and Recycler, above shall apply.

6. *Meat Processing Establishment*.

All premises where animals or poultry are slaughtered or otherwise prepared for food purposes, meat and poultry canneries, sausage making, smoking or curing operations and similar places except those places occupied and used for such purposes in the preparation of food for consumption in their own households. It shall not include retail stores if the only processing operation performed in such retail stores is that of preparing for sale the meat and poultry products which have been inspected under the provisions of the Pennsylvania Meat and Poultry Hygiene Law of 1968, except that the Pennsylvania Secretary of Agriculture or duly appointed representative may require inspection in retail establishments when he determines that the character or quantity of processing is such that inspection is necessary to protect the public health. The term Retail refers to sale to the ultimate consumer. The use does not mean Grocery Store/Meat Market as provided for under Section 3.04(D)5 of this Ordinance. The following use regulations shall apply:

a. All Meat Processing Establishments shall be licensed and operated pursuant to the Pennsylvania Meat and Poultry Hygiene Law of 1968.

b. *Minimum Lot Area*. Two (2) acres.

c. *Access*. Vehicle access shall be provided pursuant to the requirements specified in the West Pennsboro Township Subdivision and Land Development Ordinance. The subject site shall have access to an Minor Arterial or Major Collector Street.

d. All aspects of the slaughtering, processing, rendering, and packaging operation, excepting the unloading and holding of live animals, shall be conducted within a completely enclosed Building.

e. Holding pens and runways shall be designed according to the recommended standards specified in the International Journal for the Study of Animal Problems' publication titled, "Designs and Specifications for Livestock Handling Equipment in Slaughter Plants" Grandin, T. (1980).

f. The Applicant shall furnish a working plan for the recovery of escaped animals.

g. The unloading of live animals from trucks into holding pens and their movement into the plant shall be continuously supervised by a qualified operator, whose responsibility it shall be to immediately identify and appropriately dispatch any obviously ill or injured animals.

h. The unloading of live animals and their movement into the plant shall be conducted in an orderly and calm manner to minimize noise levels.

i. The loading and unloading of trucks shall be restricted to the hours between 8 AM and 6 PM prevailing time.

j. No exterior animal holding pens and/or areas devoted to loading/unloading of animals shall be located within two hundred (200) feet of any property line nor five hundred (500) feet of any land within residential and mixed-use zoning districts established under Article 2 of this Ordinance.

k. All animal holding pens and/or areas used for the loading/unloading of animals shall be screened pursuant to the requirements specified under Section 4.02 of this Ordinance.

l. Sewer and water lines shall be designed and installed to minimize the potential for leakage and contamination.

m. Wastewater shall be kept completely covered at all times to reduce the potential for release of odors. In no event shall wastewater be disposed in any other manner inconsistent with the facility's DEP-issued NPDES permit.

n. All unusable animal by-products shall be stored indoors in leak – and vector-proof containers. In the case of slaughtering or processing operations which do not do their own Rendering, the Applicant shall provide evidence of a written contract with a rendering operation for the daily disposal of such waste products. In no case shall any waste products remain on the site for more than twenty-four (24) hours.

o. The Applicant shall demonstrate written compliance with, and continue to comply with, all applicable local, State and Federal standards and regulations.

p. The use shall provide stacking lanes and on-site loading/unloading areas in the rear yard, so that trucks waiting to be loaded/unloaded shall not back up onto public roads. No parking or loading/unloading shall be permitted on or along any public road.

7. *Medical Marijuana Grower/Processor Facility*.

A Person, including a natural Person, corporation, partnership, association, trustor other entity, or any combination thereof, which holds a permit from the Pennsylvania Department of Health (DOH) to grow and process medical marijuana pursuant to Pennsylvania's Medical Marijuana Act, Act of April 17, 2016, P.L. 84, No. 16. The following use regulations shall apply:

a. A grower/processor shall meet the same municipal zoning and land use requirements as other manufacturing, processing and production facilities that are located in the same zoning district.

8. *Mining and Mineral Extraction*.

Mining and Mineral Extraction and the excavation, extraction, or removal of any Mineral Resource from the land or ground for any purpose are subject to the following use regulations:

a. *General*. A Person engaged in, or proposing to engage in, the business of mining and mineral extraction shall be properly licensed by the Pennsylvania Department of Environmental Protection (DEP) to engage in such business and each site shall be permitted by the applicable state agency. In addition, the mining and mineral extraction operation shall:

(1) Not injure or detract from the lawful existing or permitted use of neighboring properties,

(2) Not adversely affect any public or private water supply source,

(3) Not adversely affect the logical, efficient and economical extensions of public services, facilities and utilities throughout the Township,

(4) Not result in the land area subject to quarrying being placed in a condition which shall prevent the use of that land for economically and ecologically productive uses upon completion of the quarry operation,

(5) Demonstrate compliance with all applicable State regulations at all times, and

(6) Not create any significant damage to the health, safety, welfare, environment of the Township and its residents and property owners.

b. *Site Plan Requirements*. As a part of each application the Applicant shall furnish an accurately surveyed site plan on a scale no less than 1" = 200', showing the location of the tract or tracts of land to be affected by the operation. The surveyed site plan shall be certified by a Registered Design Professional with assistance from experts in related fields and shall include the following:

(1) The boundaries of the proposed land affected, together with the drainage area above and below the area.

(2) The location and names of all streams, roads, railroads, and utility lines on or immediately adjacent to the area.

(3) The location of all Buildings within one thousand (1,000) feet of the property line and the names and addresses of the owners and present occupants.

(4) The purpose for which each Building is used.

(5) The name of the Owner of the affected area and the names of adjacent landowners, the municipality, and the county.

c. *Minimum Lot Area*. Five (5) acres.

d. *Fencing*.

(1) Operations that have a high wall, as defined herein, fifteen (15) feet, or higher, shall be required to enclose the actual area of mining with a minimum eight (8) foot high chain link fence and like latching gates. Operations with no high walls, or high walls of less than fifteen (15) feet high, shall be required to enclose the area of mining with a minimum forty-seven (47) inches high minimum eleven (11) gauge woven wire fence that has openings no larger than six (6) inches in any direction and has posts at intervals of no more than ten (10) feet. All woven wire fences shall be equipped with latching minimum six (6) bar tube or panel gates, at vehicular access points.

(2) All gates shall be latched at times when the site is unattended. The Township will accept departures from the above-described fence/gate specifications, only if the Applicant can demonstrate that the proposed fence/gate will achieve an equal or higher level of protection.

(3) Along all fences, the Applicant will be required to post and maintain "No Trespassing" and/or "Danger" signs at intervals of no less than one (1) sign per each hundred (100) lineal feet of fence/gate. Such signs shall be no larger than two (2) square feet per sign and shall not be posted higher than five (5) feet above grade. All fences/gates shall be maintained in good condition and shall not be allowed to become deteriorated or unsightly.

(4) There shall be no advertising placed upon the fencing/gate.

e. *Hours of Operation*. All mining and mineral extraction operations located shall be limited to the hours of 6 AM and 7 PM prevailing time, Monday – Saturday.

f. *Access*. Vehicle access shall be provided pursuant to the requirements of the West Pennsboro Township Subdivision and Land Development Ordinance. The subject site shall have access to an Minor Arterial or Major Collector Street.

g. *Reclamation*. The Applicant shall demonstrate compliance with Section 7.(c) of the Pennsylvania's Noncoal Surface Mining Conservation and Reclamation Act, Dec. 19, P.L. 1093, No. 219, as may be amended. The Applicant shall provide a detailed description of the proposed use of the site, once reclamation has been completed, including a description of any zoning and/or subdivision approvals or remedies that would be necessary to accommodate the proposed use. Finally, the Applicant shall provide a written notification to the Township within thirty (30) days, whenever a change in the reclamation plan is proposed to the PA DEP.

h. *Screening*. All uses shall be screened from adjoining roads and properties. Such screening shall be comprised of an earthen berm at least ten (10) feet in height. Such berm shall be located on the subject property and placed so as to maximize the berm's ability to absorb and/or block views of, and the noise, dust, smoke, etc. generated by, the proposed use. The berm shall be completely covered and maintained in an approved vegetative ground cover. Along any adjoining property line and road shall be located a ten (10) foot wide landscape screen. Such landscape screen shall consist of evergreen shrubs and trees arranged to form both a low-level and a high-level screen. The high-level screen shall consist of deciduous and evergreen trees of not less than five (5) feet in height at the time of planting, that shall be planted at intervals of not more than ten (10) feet. The low-level screen shall consist of evergreen trees and shrubs of not less than three (3) feet in height at the time of planting, that shall be planted at intervals of not more than five (5) feet. The landscape screen shall be located outside of the fence required by Subsection (8)d., above and must be permanently maintained;

i. The Applicant shall provide a letter indicating that the public or private source shall provide the water needed. The Applicant shall submit an analysis of raw water needs from either private or public sources, indicating the quantity of water required. If the water required exceeds 100,000 gallons per day, a permit is needed from the Susquehanna River Basin Commission. In addition, if the facility is to rely upon non-public sources of water, a permit is required. A water feasibility study shall be provided to enable the Township to evaluate the impact of the

proposed construction on the groundwater supply and on existing wells. The purpose of the study shall be to determine if there is an adequate supply of water for the proposed construction and to estimate the impact of the new construction on existing wells in the vicinity. The water feasibility shall be reviewed by the Township Engineer. A water system which does not provide an adequate supply of water for the proposed construction, considering both quantity and quality, or does not provide for adequate groundwater recharge, considering the water withdrawn by the proposed construction, shall not be approved by the municipality. A water feasibility study shall include the following information:

(1) Calculations of the projected water needs.

(2) A geologic map of the area with a radius of at least one mile from the site.

(3) The location of all existing and proposed wells within one thousand (1,000) feet of the site, with a notation of the capacity of all high-yield wells.

(4) The location of all streams within one thousand (1,000) feet of the site and all known point sources of pollution based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined.

(5) A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table.

(6) A statement of the qualifications and the signature(s) of the Person(s) preparing the study.

9. *Outdoor Storage Yard*.

A Lot used primarily for the outdoor storage of construction equipment parts, materials and supplies, and parking of wheeled construction equipment. This Use does include associated on-site offices and indoor storage as an accessory use to the principal use. The following use regulations shall apply:

a. The Outdoor Storage Yard shall be secured and screened from view of the front Lot line. Screening shall be required pursuant to Section 4.02 of this Ordinance.

b. Loose materials shall not be stacked higher than twenty (20) feet.

c. Loose materials shall at a minimum be stored in a three (3)-sided shelter and shall be covered.

d. Materials shall be set back a minimum of five (5) feet from any Lot line.

10. *Solid Waste Disposal Facility*.

A facility using land for disposing or processing of municipal waste. Waste means a heavy industrial use involving the sorting, storage and disposal of goods and by-products. Facilities may have disposal plans, and chemical disposition plans. The facility includes land affected during the lifetime of operations, including, but not limited to, areas where disposal or processing activities actually occur, support facilities, borrow areas, offices, equipment sheds, air and water pollution control and treatment systems, access roads, associated onsite or contiguous collection, transportation and storage facilities, closure and post closure care

and maintenance activities and other activities in which the natural land surface has been disturbed as a result of or incidental to operation of the facility. The following use regulations shall apply:

a. Such facility shall be established and operated in accordance with the applicable requirements of all State and Federal codes, acts, rules and regulations, as amended and all State and Federal regulating bodies and agencies. The Applicant shall demonstrate compliance through a written statement and continue to comply with all applicable State and Federal standards and regulation.

b. A minimum Lot area of twenty-five (25) acres is required.

c. No facility shall be located within five hundred (500) feet of any Street or property line and shall be screened using pursuant to Section 4.02 of this Ordinance.

d. The Lot shall have direct access to an Minor Arterial or Major Collector Street pursuant to the requirements of the West Pennsboro Township Subdivision and Land Development Ordinance or a road having adequate structural and geometrical characteristics as determined by the Township Engineer to handle the anticipated future Truck traffic.

e. All uses shall provide adequate lanes into the facility, so that vehicles waiting to be weighed shall not back up onto public roads.

f. Access to the site shall be limited to those posted times when an attendant is on duty. In order to protect against the indiscriminate and unauthorized dumping, all areas of the site shall be protected by locked barricades, fences, gates or other positive means designed to deny access to the area at unauthorized times or locations.

g. Litter control shall be exercised to prevent the scattering of wind-borne debris, and a working plan for the cleanup of litter shall be submitted to the Township and posted on the property.

h. The unloading, processing, transfer, and deposition of solid waste shall be continuously supervised by a qualified facility operator.

i. Any processing and/or treatment of waste (including but not limited to incineration, composting, steaming, shredding, compaction, material separation, refuse derived field, pyrolysis, etc.) shall be conducted within a wholly enclosed Building.

j. The use shall be screened from all adjoining properties using screening pursuant to Section 4.02 of this Ordinance.

k. A minimum one hundred (100) foot wide buffer shall be located along all property lines. No structures, storage, parking, or any other related activity or operation shall be permitted within this landscape strip. Any fences or other screening erected on the site, shall not be located within this landscape strip.

l. Any waste that is to be recycled shall be stored in leak - and vector-proof containers. Such containers shall be designed to prevent their being carried by wind or water. These containers shall be stored within a completely enclosed Building.

m. All storage of waste shall be indoors in a manner that is leak and vector proof. During normal operation, no more waste shall be stored on the property than is needed to keep the facility in constant operation; but, in no event for more than twenty-four (24) hours.

n. A contingency plan for the disposal of waste during a facility shutdown, shall be submitted to the Township.

o Leachate from the waste shall be disposed of in a manner in compliance with any applicable State and Federal laws or regulations. If leachate is to be discharged to a municipal sewage facility, pre-treatment may be required and appropriate permits shall be obtained from the applicable agencies and authorities. In no event shall leachate be disposed of in any manner inconsistent with the Department of Environmental Protection's regulations.

p. In addition to the applicable zoning district's setbacks, all Buildings or Structures shall be set back at least one and one-half (1.5) times of the Building or Structure's Height.

q. The Applicant shall submit an analysis of raw water from either private or public sources, indicating the quantity of water required. The Applicant shall provide a letter indicating that the public or private source shall provide the water needed. In addition, if the facility is to rely upon non-public sources of water, appropriate permits shall be required (i.e., Township, PA DEP, and Susquehanna River Basin Commission). A water feasibility study shall be provided to enable the township to evaluate the impact of the proposed construction on the groundwater supply and on existing wells. The purpose of the study shall be to determine if there is an adequate supply of water for the proposed construction and to estimate the impact of the new construction on existing wells in the vicinity. The water feasibility shall be reviewed by the township engineer.

A water system which does not provide an adequate supply of water for the proposed construction, considering both quantity and quality, or does not provide for adequate groundwater recharge, considering the water withdrawn by the proposed construction, shall not be approved by the Township. A water feasibility study shall include the following information:

(1) Calculations of the projected water needs.

(2) A geologic map of the area with a radius of at least one mile from the site.

(3) The location of all existing and proposed wells within one thousand (1,000) feet of the site, with a notation of the capacity of all high-yield wells.

(4) The location of all existing on-Lot sewage disposal systems within one thousand (1,000) feet of the site.

(5) The location of all streams within one thousand (1,000) feet of the site and all known point sources of pollution.

(6) Based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined.

(7) A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table.

(8) A statement of the qualifications and the signature(s) of the Person(s) preparing the study.

r. The Applicant shall furnish expert testimony regarding emergency preparedness measures provided and/or otherwise available to respond to potential hazards regarding the spill of waste materials during transport, and potential hazards regarding firefighting of waste materials upon the site.

s. No principal waste handling facility shall be located within one (1) mile of another, as measured in a straight line between closest property lines.

t. Maximum Height of Fill: Fifty (50) feet.

u. A plan for the restoration of all borrow areas shall be submitted to the Township for approval.

v. The hours of operation for this use shall be limited to 6 AM to 7 PM, prevailing time, Monday – Saturday.

11. *Truck Terminal*.

A facility to accommodate the fueling, routine maintenance and storage of trucks and other motorized equipment and trailers and that may provide warehousing and transfer facilities as accessory uses. The following use regulations shall apply:

a. The site shall have frontage on and direct vehicular access to an Minor Arterial or Major Collector Street.

b. No point on the site boundary shall be located within three hundred (300) feet of any property line of a property containing a residential dwelling.

c. Ingress, egress and internal traffic circulation shall be designed to ensure safety and minimize congestion.

d. All materials and equipment shall be stored within a completely enclosed Building, as defined herein.

e. No repair of vehicles shall be permitted outside a completely enclosed Building, as defined herein.

12. *Truck or Truck Trailer Parking*.

A tract of land, or portion thereof, used by Commercial Trucks for the purpose of dropping or picking up loaded and/or unloaded trailers, including the incidental short-term or daily storage of Trucks and storage of loaded and/or unloaded Trailers, for transfer to other points or jurisdictions. The use may include an accessory guardhouse or similar type Structure to allow for Trailers to be checked in and out. The use does not include the breakdown or aggregation into smaller or larger loads. Commonly referred to as a "Drop Lot." The following use regulations shall apply:

a. The Use shall be located on a parcel of no less than ten (10) acres in size.

b. The Use Shall have direct access to an Minor Arterial or Major Collector Street and ingress, egress and internal traffic circulation shall be designed to ensure safety and minimize congestion.

c. No point on the site boundary shall be located within three hundred (300) feet of any residential zoning district or residential property line.

d. The entire perimeter of the facility shall be lighted according to the lighting standards specified under Section 4.08 of this Ordinance.

e. The Use shall be secured via a minimum twelve (12) foot high chain link fence and have a secure gated access that is accessible only by authorized users of the parking facility. Authorized access shall include West Pennsboro Township officials, including designated zoning and code enforcement, police, fire, and EMS personnel.

f. The owner/operator of the Use shall have a hazardous material spill plan approved by the Cumberland County Department of Public Safety and a designated safety officer responsible for monitoring and reporting any suspected or known hazardous materials spills occurring from the use of the parking facility.

g. The use shall not be used for overnight sleeping in Trucks or as a Truck Stop Rest area.

h. Other than storage within Trailers using the parking facility, the site shall not have any Buildings or Structures used for the storage of materials.

i. Overnight Truck idling is prohibited within the Township limits. No person shall allow the primary propulsion engine of a motor vehicle to idle for more than ten (10) consecutive minutes when the motor vehicle is not in motion. Truck stop facilities shall provide signage indicating overnight idling is prohibited. Such signage must be located at the entrance of overnight parking Lots in a visible manner to Truck drivers.

13. *Warehouse and Distribution*.

A Use involving large-scale indoor storage of goods, packaging of goods, and distribution typically between production and the market. May include a small ancillary retail facility. Warehouse and Distribution Uses also include substantial commercial vehicle access, storage, and intermodal exchanges. Warehouse and Distribution Uses includes such Uses as those identified in Table 3.07, Typical Warehouse and Distribution Uses.

Table 3.07, Typical Warehouse and Distribution Uses.

Distribution Facility
Freight Forwarding Service
Fuel Distribution
Mail and Parcel Sorting & Distribution
Mail Order House and Warehousing
Newspaper Distribution Facilities
Packing and Crating

Personal Storage
Petroleum Bulk Station
Recycling Center (Collection & Sort)
Truck Terminal or Parking Facilities
Warehousing and Storage (Refrigeration or General)
Water Distribution
Wholesale Trade of Goods

The following use regulations shall apply:

a. The Applicant shall provide a detailed description of the following:

1. Proposed nature of the on-site activities and operations, the types of materials stored, the frequency of distribution and restocking, the duration period of storage of materials, and the methods for disposal of any surplus or damaged materials. In addition, the applicant shall furnish evidence that the disposal of materials will be accomplished in a manner that complies with State and Federal regulations.

2. The general scale of the operation, in terms of its market area, specific floor space requirements for each activity, the total number of employees on each shift, and an overall needed site size.

b. *Minimum Lot Area*. The subject property shall have a minimum Lot area of ten (10) acres and a minimum of three hundred (300) feet of frontage onto an Minor Arterial or Major Collector Street.

c. *Required Setback*. Parking, staging, and loading/unloading areas shall be located no closer than one hundred (100) feet from the property line of a residential use or district and/or property containing a school, daycare facility, park, playground, library, hospital, or nursing or retirement home, except where such parking, staging, and loading/unloading areas, and Buildings are separated from such other uses by an Interstate Highway.

d. *Buffer Screening*.

(1) A one hundred (100) foot deep buffer strip shall be provided along any Lot line of the subject property that adjoins a residential use or district, except where the subject property is separated from such residential us or district by an Interstate Highway. A seventy-five (75) foot deep buffer strip shall be provided along any adjoining Right-of-Way of an Minor Arterial or Major Collector Street.

(2) The required setback specified Subparagraph b. above may be reduced to no less than fifty (50) feet when a minimum fifteen (15) foot high natural planted earthen berm buffer screen is used pursuant to Section 4.02 of this Ordinance.

e. *Maximum Building Height*. The maximum Building height shall be permitted to increase by one (1) foot for every two (2) feet by which the Building exceeds applicable minimum Yard requirements up to a maximum of Building height of fifty (50) feet.

f. Any exterior public address system shall be designed and operated so that the audible levels of any messages conveyed over the system will not exceed the amount of noise levels of the use, as measured at each Lot lines.

g. Electric hookups shall be installed to reduce idling of main auxiliary engines when Trucks are in a stationary position. One (1) hookup shall be required per parking space.

h. *Access, Parking, and Loading*.

(1) The use shall have direct access to an Minor Arterial or Major Collector Street.

(2) A minimum of five (5) percent of the required total Tractor and Trailer parking spaces shall be reserved for outbound trucks which are required to layover or rest due to federal hours of service regulations. Such spaces must be made available to tractor-trailers during and/or after the facility's operating hours as necessary.

(3) All trucks awaiting access to a loading/unloading dock/doorway shall park in the designated tractor trailer parking spaces unless all such spaces are already occupied.

(4) The application shall be required to provide sufficient off-street parking and loading so as not to require such parking or loading on or along any road, nor upon adjoining property. If, at any time after the opening of the facility, the Board of Supervisors determine that parking, loading or traffic backups are occurring on adjoining roads, and such are directly related to the lack of on-site facilities on the subject property, the Supervisors can require the applicant to revise and/or provide additional on-site parking and/or loading space. In addition, the Board of Supervisors may require an unimproved grassed overflow parking area to be provided for peak use periods. Such overflow parking areas shall be accessible only from the interior driveways of the permanent parking lot. Overflow parking areas shall contain fencing to prevent vehicles from crossing adjoining properties or directly accessing adjoining roads.

(5) Each Warehouse and Distribution use shall provide off-street loading facilities which meet the minimum requirements of Section 4.11 of this Ordinance and are sufficient to accommodate the maximum demand generated by the use. Each loading space and the needed maneuvering room shall be located entirely on the Lot being served and be located outside of required buffer areas and Street Rights-of-Way. Each loading space shall have sufficient maneuvering room to avoid conflicts with parking and traffic movements within and outside of the Lot. No facility shall be designed or used in such a manner that it creates a safety hazard, public nuisance or an impediment to traffic off the Lot.

(6) Where gates, guard shacks or checkpoints are proposed at the entrance(s) to the facility, adequate queuing space shall be provided within the property boundaries to prevent stacking of vehicles on or along public Streets. Any entry gates into the loading dock/Truck court area shall be positioned after a minimum of one hundred forty (140) feet of total

available stacking depth inside the property line. The stacking distance shall be increased by seventy (70) feet for every twenty (20) loading docks beyond fifty (50) docks. Queuing and circling of vehicles on public Streets immediately pre- or post-entry to a Truck Terminal is strictly prohibited unless queuing occurs in a deceleration lane or right turn lane exclusively serving the facility.

i. *Outdoor Storage*.

(1) The outdoor storage of unlicensed and/or uninspected Trucks or Trailers is prohibited.

(2) No outdoor storage of trash, garbage, refuse, explosive or flammable materials, hazardous substances, animals, animal carcasses or skins or similar items shall be permitted.

j. The use shall include an appropriate system to contain and properly dispose of any fuel, grease, oils, or similar pollutants that may spill or leak where such substances are stored or where vehicles are fueled, repaired or maintained.

k. *Signage and Traffic Patterns*.

(1) Applicants shall submit to the Township Engineer, and obtain approval of, all turning templates to verify Truck turning movements at entrance and exit driveways and Street intersections adjacent to a Warehouse/Distribution use prior to conditional use approval.

(2) Anti-idling signs indicating a three (3) minute diesel Truck engine idling restriction shall be posted at Warehouse/Distribution uses along entrances to the site and in the dock areas and shall be strictly enforced by the facility operator.

(3) The Applicant shall establish and submit with its conditional use application a Truck routing plan to and from the state highway system. The plan shall describe proposed Truck routing to and from the Warehouse/Distribution facility to designated Truck routes that avoids passing sensitive receptors to the greatest extent possible. The plan shall include measures, such as signage and pavement markings, queuing analysis and enforcement, for preventing Truck queuing, circling, stopping, and parking on public Streets. The facility operator shall be responsible for enforcement of the plan. The Board of Supervisors shall have discretion to determine if changes to the plan are necessary including any additional measures to alleviate Truck routing and parking issues that may arise during the life of the facility.

(4) Signs shall be installed at all Truck exit driveways directing Truck drivers to the Truck route as indicated in the Truck routing plan and state highway system.

(5) Signs and drive aisle pavement markings shall clearly identify the on-site circulation pattern to minimize unnecessary on-site vehicular travel.

(6) Facility operators shall post signs in prominent locations inside and outside of the Building indicating that off-site parking for any employee, Truck, or other operation related vehicle is strictly prohibited. The Township may

require the facility operator to post signs on surface or residential Streets indicating that off-site Truck parking is prohibited by this Ordinance and as specified in the required Truck routing plan.

I. *Environmental and Community Impact Analysis*. The Applicant shall provide an environmental and community impact analysis. The environmental and community impact analysis shall include:

(1) A narrative description of the nature of the on-site activities and operations, including the market area served by the facility, the hours of operation of the facility, the total number of employees on each shift, the times, frequencies and types of vehicle trips generated, the types of materials stored and the duration period of storage of materials.

(2) A site plan of the property indicating the location of proposed improvements, flood plains, wetlands, waters of the Commonwealth, and cultural and historic resources on the property and within five (500) feet of the boundaries of the property.

(3) Evidence that the disposal of materials will be accomplished in a manner that complies with state and federal regulations.

(4) An evaluation of the potential impacts of the proposed use, both positive and negative, upon:

(a) Emergency services and fire protection;

(b) Water supply;

(c) Sewage disposal;

(d) Solid waste disposal;

(e) School facilities and school district budget;

(f) Municipal revenues and expenses

(5) Any environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, stormwater, solid waste, etc.) and specific measures employed to mitigate or eliminate any negative impacts including the performance standards specified in Section 4.15 of this Ordinance. The Applicant shall further furnish evidence that the impacts generated by the proposed use fall within acceptable levels, as regulated by applicable laws and ordinances.

(6) *Air Quality*. The applicant shall be required to submit at a conditional use hearing the following information pertaining to air pollution:

(a) A qualified Expert Letter Report that identifies and sets forth the following:

i. A description of the primary activities of the proposed use that would materially contribute to emissions of regulated air pollutants;

ii. A review of the potentially applicable air quality requirements, identification of how the applicant will comply with these air quality requirements, and a summary of these air quality requirements or references to applicable exemptions from such requirements; and

iii. The methods that will be used by the applicant to assure that the propose use (1) will not contribute materially to air pollution, as that term is defined in Title 25, Chapter 121 of the Rules and Regulations of the Pennsylvania Department of Environmental Protection (PADEP); and, (2) will comply with all applicable United States Environmental Protection Agency (U.S. EPA) and PADEP air quality regulations.

(b) If emissions from the proposed use are regulated by permit by the PADEP or U.S. EPA, the identified applicable air quality requirements and the measures that the applicant will use to assure compliance with these air quality requirements.

(c) Copies of any applications that have been made to, or permits received from, PADEP or U.S. EPA for the discharge of regulated air pollutants, fromthe proposed use. If no permit applications have yet been submitted, the applicant shall identify the permits that will be submitted to such agency or provide copies of permit exemptions granted by PADEP or the U.S. EPA;

(d) The proposed use must remain in compliance with all applicable air quality requirements of the U.S. EPA and PADEP. If West Pennsboro Township notifies the owner or operator that the use is not in such compliance, the owner or operator will furnish West Pennsboro Township a plan to attain compliance with such regulations within sixty (60) days of such notice. Upon approval of that plan, the applicant will have ninety (90) days to provide evidence that all applicable air quality requirements are being met, or it will be found in violation of this Ordinance.

(e) Within one (1) year of the operation of the proposed use, and every calendar year thereafter, the owner or operator must provide a Statement of Compliance with applicable air quality requirements, a summary of the measures employed by the owner or operator to assure compliance with the air quality provisions of this Ordinance, and a listing of any Notices of Violation that they have received from the U.S. EPA or PADEP during that one year reporting period.

(f) Any terminal where four or more diesel operated trucks periodically congregate will have in place an anti-idling policy in accordance with Act 124 of 2008 providing for idling regulations.

14. *Yard Waste Composting Facility*.

A facility which yard waste and natural wood waste is received and processed to produce compost for off-site Use. Retail and wholesale sales of bulk compost, mulch, and earth products shall be permitted as an Accessory Use to a yard waste composting facility. The term does not include composting by a single-family Lot Owner for personal Use. The following use regulations shall apply:

a. *Minimum Lot size*: Five (5) acres.

b. *Setbacks*.

(1) The minimum composting activity setback shall be one hundred (100) feet from any property line abutting a non-residential Use or zoning district.

(2) The minimum composting activity setback two hundred (200) feet from any property line abutting a residential Use or zoning district.

c. *Operations*.

(1) *Compliance*. A Yard Waste Composting Facility shall always be in full compliance with the statutes of the Commonwealth of Pennsylvania and the rules and regulations of the Department of Environmental Protection (DEP) and the provisions of this Article. In the event that any of these provisions are in conflict, then the requirements of the Department of Environmental Protection shall apply.

(2) *Hazardous Waste Disposal*. Hazardous waste as included on the list of hazardous waste as maintained by DEP shall not be disposed of in a composting facility.

(3) *Management*. Each permitted facility must have a certified compost operator on staff. This certification can be the Compost Specialization Certificate from the Professional Recyclers of Pennsylvania (PROP), or other DEP-approved certification courses.

(4) *Site Maintenance*. The entire area shall be kept clean and orderly.

d. *Site Access*. Access to the site shall be limited to those posted times when an attendant is on duty. In order to protect against indiscriminate and unauthorized dumping, every composting facility shall be protected by locked barricades, fences, gates or other positive means designed to deny access to the area at unauthorized times or locations.

Section 3.05 Accessory Uses

(A) *General Provisions.*

1. *Accessory Uses Allowed*. Accessory Uses as listed in Table 3.01, Table of Permitted Uses, are allowed only in connection with the lawfully established Principal Uses.

2. *Allowed Uses*. Allowed Accessory Uses are limited to those expressly regulated in this Ordinance as well as those that satisfy the following criteria:

   a. They are customarily found in conjunction with the subject Principal Use(s) or Principal Structure;

   b. They are subordinate and clearly incidental to the Principal Use(s) of the property; and

   c. They serve a necessary function for the comfort, safety, or convenience of occupants of the Principal Use(s).

3. *Accessory Structures*. Refer to Section 4.01 of this Ordinance.

4. *Time of Construction and Establishment*. Accessory Uses may be established only after the Principal use of the subject property is in place.

5. *Location*. Accessory Uses shall be located on the same Lot as the Principal Use to which they are accessory.

(B) *Accessory Uses*.

1. *Accessory Dwelling Unit*.

   A dwelling clearly subordinate to the principal Building on the same Lot and serving a purpose customarily incidental to the principal residential Building. This unit will be considered an Accessory Dwelling Unit if it is 1) located in a separate Structure or offers an independent entrance, 2) provides sleeping, cooking, and bathroom facilities independent from the principal dwelling, 3) is occupied by family relations of the primary residence and 4) the unit is occupied by no more than two (2) people. The following use regulations shall apply:

   a. A property Owner shall file a Zoning Permit for an accessory dwelling unit prior to its recognition as an Accessory Dwelling Unit. The property proposed for an Accessory Dwelling Unit shall contain one (1), but no more than one (1), residential Structure occupied as a one-unit Dwelling.

   b. The property shall be Owner-occupied, either in the Principal Structure or principal Dwelling Unit, or in the accessory Dwelling.

   c. The Accessory Dwelling Unit shall be located either:

      (1) In a newly constructed Accessory Dwelling Unit Structure;

      (2) In an existing detached accessory Structure occupied, or formerly occupied, on the first floor by a garage, barn, or similar Accessory Use; or

(3) In a Principal Structure, including a Tiny Home, as defined in Section 6 of this Ordinance, provided that there is a separate entrance to the exterior or to an unconditioned porch type space.

d. The Usable GFA of the Accessory Dwelling Unit shall not exceed fifty (50) percent of the Usable GFA of the principal dwelling unit or one thousand (1,000) square feet, whichever is less. Exterior patios, decks, porches, and staircases providing interior access from the principal unit to the Accessory Dwelling Unit shall not be counted toward the Usable GFA of the Accessory Dwelling Unit.

e. *Parking*. A minimum of one (1) off-street parking spaces are required for an Accessory Dwelling Unit.

f. *Pedestrian Access*. An all-weather surface path to the Accessory Dwelling Unit shall be provided from the Street Frontage.

g. A separate numeric address for the Accessory Dwelling Unit is prohibited.

h. *Existing Public Sewer Service*. Unless otherwise approved by the West Pennsboro Township Municipal Authority, no new, separate utility connection may be installed for the Accessory Dwelling Unit in a Principal Structure, unless more than one (1) utility connection already serves the Lot, to the location of the proposed Accessory Dwelling Unit, at the time of the application for the Accessory Dwelling Unit. The Accessory Dwelling Unit shall require an additional equivalent dwelling unit (EDU) for public sewer service.

i. *Existing On-Lot Sewage Disposal Systems*. Written approval from the Township Sewage Enforcement Office (SEO) must be obtained before an Accessory Dwelling Unit may be serviced by an existing on-lot sewage disposal system.

j. *Lot Non-severability*. The Accessory Dwelling Unit may not be conveyed, or the title to the Accessory Dwelling Unit be transferred separate and apart from the rest of the property.

k. *Mechanical Equipment*. Mechanical equipment shall be located on the ground or contained within an Accessory Dwelling Unit and may not be located on the roof.

2. *Accessory Solar Energy Systems (ASES)*.

An area of land or other area used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. An Accessory Solar Energy System (ASES) consists of one (1) or more free-standing ground mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels. The following use regulations shall apply:

(a) A minimum of fifty-one (51) percent of the energy produced from an ASES shall be used on-site.

(b) The ASES solar project area shall only be located on fifteen (15) percent of the total Class I and Class II soils within the parcel boundary. This requirement does not apply if the project area is proposing agrivoltaics.

(c) *Exemptions*. ASES with an aggregate collection and/or focusing area of fifty (50) square feet or less are exempt from this Ordinance.

(d) The ASES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM),), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code as enforced by the Municipality and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

(e) *Permit Requirements*.

(1) Zoning permit applications shall document compliance with this Ordinance and shall be accompanied by drawings showing the location of the ASES on the building or property, including property lines. Permits must be kept on the premises where the ASES is constructed.

(2) The zoning permit shall be revoked if the ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this Ordinance.

(3) The ASES must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the owner of the ASES to conform or to remove the ASES.

(f) *Roof Mounted and Wall Mounted ASES*.

(1) A roof mounted or wall mounted ASES may be located on a principal or accessory building.

(2) The total height of a building with an ASES shall not exceed by more than three (3) feet above the maximum building height specified for principal or accessory buildings within the applicable zoning district.

(3) Wall mounted ASES shall comply with the setbacks for principal and accessory structures in the underlying zoning districts.

(4) Solar panels shall not extend beyond any portion of the roof edge.

(5) For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and adopted building code of the municipality that the roof or wall is capable of holding the load imposed on the structure.

(g) *Ground Mounted ASES*.

(1) *Setbacks*.

(a) Ground mounted ASES shall be prohibited in the front yard area or may be located in the front yard provided the ASES can be setback a minimum of one hundred (100) feet from the public right of way.

(b) However, the Zoning Officer may through a formal written decision authorize the installation of a ground mounted ASES in front of the principal building, outside the required front yard, if the applicant demonstrates that, due to solar access limitations, no location exists on the property other than the front yard where the solar panel can perform effectively. At a minimum, the applicant shall provide the following information:

i. Site Plan drawn to scale.

ii. Supporting technical information from the solar manufacturer/installer on the proposed feasible placement of the ground mounted ASES.

iii. Location of water and septic systems.

iv. Property setbacks.

v. Written proof that adjacent property owners were notified in writing of the applicant's proposed project.

(2) *Height*. Ground mounted ASES shall not exceed twelve (12) feet in height above the ground elevation surrounding the systems.

(3) Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the ASES shall be locked to prevent unauthorized access or entry.

(4) Ground-mounted ASES shall not be placed within any legal easement or right-of-way location or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system.

(5) *Glare*.

a. All ASES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways. Exterior surfaces shall have a non-reflective finish.

b. The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

(6) Prior to the issuance of a Zoning Permit, Applicants shall acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in the property Owner, its, his, her or their successors and assigns in title or, create in the property itself:

(a) The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or

(b) The right to prohibit the development on or growth of any trees or vegetation on such property.

(7) *Decommissioning*.

(a) Each ASES and all solar related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by system Owner and/or operator, or upon termination of the useful life of same.

(b) The ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of twelve (12) continuous months.

(8) The ASES shall be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the Owner of the ASES to conform or to remove the ASES.

3. *Accessory Wind Energy Systems (AWES)*.

An area of land or other area used for a collection system used to capture wind energy, convert it to electric energy, and supply electric power primarily for on-site use. An AWSES consists of one (1) or more free-standing ground mounted wind turbines or wind energy-related equipment and is intended to primarily reduce on-site consumption of utility power or fuels. The following use regulations shall apply:

a. *General*. Accessory Wind Energy Systems (AWES) shall be permitted as an accessory use in all zoning districts subject to the following conditions:

(1) *Maximum Number Permitted*. Only one (1) ground mounted AWES and one Building mounted AWES is permitted on a Lot.

(2) *Noise Performance Standards*. The noise performance standards specified under Section 4.15 of this Ordinance shall apply.

(4) When an accessory Building is necessary for storage or related mechanical equipment, the accessory Building shall comply with the accessory Building requirements of the underlying zoning district.

(5) The Structure supporting the wind rotor unit, including any necessary guideposts and supporting cables, shall be independent of any occupied Structure and located a minimum distance of the supporting Structure height plus ten (10) feet from any occupied dwelling, and shall not be more than

one and one half (1.5) times the maximum principal Building Height limits specified for the applicable zoning districts under Article 2 of this Ordinance.

(6) The minimum distance between the tower and any property line shall be not less than two (2) times the Height of the supporting Structure.

(8) The minimum distance between grade and the lowest point of the rotor blade shall be twenty (20) feet.

(9) All electric line/utility wires shall be buried underground.

(10) Any mechanical equipment associated and necessary for operations, including a Building for batteries and storage cells, shall be enclosed with a six (6) foot high fence. The supporting Structure shall also be enclosed with a six (6) foot fence unless the base of the tower is not climbable for a distance of twelve (12) feet.

(11) When a Building is necessary for storage cells or related mechanical equipment, the Building shall not exceed one hundred forty (140) square feet in area, nor eight (8) feet in Height and shall be located at the base of the supporting Structure.

(12) The resultant energy harnessed from the wind shall be used on the property it is located on and not used as a commercial enterprise.

(13) The supporting Structure and generating unit shall be kept in good repair and sound condition. Upon abandonment of Use, the supporting Structure and related Structures shall be dismantled and removed from the property within sixty (60) days.

(14) *Decommissioning*.

(a) Each AWES and related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by system Owner and/or operator, or upon termination of the useful life of same.

(b) The AWES shall be presumed to be discontinued or abandoned if no electricity is generated by such AWES for a period of twelve (12) continuous months.

(15) *Maintenance*. The AWES shall be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the Owner of the AWES to conform or to remove the AWES.

b. *Requirements for Ground Mounted AWES*.

(1) Ground mounted AWES may be placed on Lots of any size assuming they meet the requirements of this section.

(2) *Height*.

(a) AWES Height shall not be restricted assuming that the AWES meets the setback requirements.

(b) The minimum ground clearance for the AWES shall be (15) feet.

(3) *Setbacks*. All AWES shall be set back from property lines, occupied Buildings, above ground utility lines, railroads and/or road Right-of-Way by a distance equal to no less than one times the total Height.

(4) *Number*. One (1) ground mounted AWES is permitted per Lot.

(5) *Location*.

(a) Ground mounted AWES are prohibited in front yards, between the principal Building and the public Street.

(b) Installation of a ground mounted AWES may be authorized in front of the principal Building, outside the required front yard, if the Applicant demonstrates to the Zoning Hearing Board through a Conditional Use that, due to wind access limitations, no location exists on the property other than the front yard where the AWES can perform effectively.

(6) *Safety and Security*.

(a) The Owner shall post electrical hazard warning Signs on or near the AWES.

(b) Ground mounted AWES shall not be climbable up to (15) feet above ground surface.

(c) Access doors to any AWES electrical equipment shall be locked to prevent entry by unauthorized persons.

c. *Requirements for Building Mounted AWES*.

(1) Building mounted AWES may be located on any Lot regardless of size.

(2) Height regulations shall not apply to Building mounted AWES, provided the Height does not exceed the limitations of the zoning district for which they are located.

(3) There is no limit on the number of Building mounted AWES.

d. *Other General Requirements*.

(1) The display of advertising is prohibited except for identification of the manufacturer of the system.

(2) AWES shall not be lighted except for any lighting required to comply with Federal Aviation Administration (FAA) or Pennsylvania Department of Transportation Bureau of Aviation (BOA) regulations

(3) AWES shall be painted a non-reflective, flat color such as white, off white or gray unless required to be colored differently from FAA or BOA regulations.

(4) AWES shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, over speeding and excessive pressure on the tower Structure, rotor blades and turbine components.

(5) An AWES shall not cause shadow flicker on any occupied Building on a non-participating landowner's property.

(6) No part of any AWES shall be located within or above the required setbacks of any Lot, extend over parking areas, access drives, driveways or sidewalks.

(7) The Owner of the AWES shall provide evidence that the Owner's insurance policy has been endorsed to cover an appropriate level of damage or injury that might result from the installation and operation of the wind energy facility.

4. *Agricultural Commercial Enterprise*.

An accessory use to an Agricultural Operation for the purpose of directly marketing agricultural products in their natural or manufactured state. The term shall include any on-farm processing, packaging or other activity performed in the course of direct marketing of agricultural products. Examples include but are not limited to farm stands, creameries, pick-your-own operations, community supported agriculture (CSA), Christmas tree farm, etc.

a. An Agricultural Commercial Enterprise shall be conducted in such a way that no traffic congestion, noise, glare, air pollution, odor, smoke, vibration, fire hazards, safety hazards, electromagnetic interference, or otherwise, shall be noticeable at or beyond the property line.

b. The hours of operation shall be consistent with other businesses in the district and protect neighbors from light, noise, disturbance, or interruption.



Farm stand



Direct milk sales at farm



CSA pick up at farm

5. *Agritourism Marketing Enterprise*.

An accessory use to an Agricultural Operation at which activities are offered to the public or to invited groups for the purpose of recreation, entertainment, education, or active involvement in the agricultural operation. These activities shall be related to agriculture or

natural resources and incidental to the primary operation on the site. These activities may include a fee for participants. Examples include but are not limited to hayrides, corn mazes, farm tours, rodeo, educational exhibits, agriculturally related events, recreation related tours, wedding venues, and other special event activities, etc. The following use regulations shall apply:

a. An Agritourism Marketing Enterprise shall be conducted in such a way that no traffic congestion, noise, glare, air pollution, odor, smoke, vibration, fire hazards, safety hazards, electromagnetic interference, or otherwise, shall be noticeable at or beyond the property line.

b. The hours of operation shall be consistent with other businesses in the district and protect neighbors from light, noise, disturbance, or interruption.



Structure with educational exhibits


Corn maze


Hay ride

6. *Airstrip (Private), Heliport/Helistop*.

An aviation use that is accessory to the principal use of a property. The following use regulations shall apply:

a. *Airstrip, Private*. Personal takeoff and landing facility attached to the owner's property and used only by the owner of said property. The following use regulations shall apply:

(1) *Minimum Lot Area*. Five (5) acres.

(2) All facilities shall be designed and operated in strict compliance with all applicable State and Federal laws and regulations.

(3) The Applicant shall furnish evidence of the obtainment of a license from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the conditional use application.

(4) No part of the take-off/landing strip and/or pad shall be located nearer than two hundred fifty (250) feet from any property line.

b. *Heliport and Vertiport*. The use regulations for principal Heliport and Vertiport uses specified under Section 3.04(H)2. of this Ordinance shall apply.

c. *Helistop*. The use regulations for the principal Helistop uses specified under Section 3.04(H)3. of this Ordinance shall apply.

7. *Anerobic Digestor / Biogas System*.

Anerobic Digestor / Biogas Systems are uses designed to convert biodegradable organic materials into recoverable methane (CH4)-rich gas and a stabilized digestate using a well-documented, complex biological process. Systems include the following components: (1) an aboveground or inground structure for waste reception and short-term storage, (2) a digester, which may be an aboveground tank or a covered lagoon, (3) an effluent (digestate) storage structure, which most commonly is a fill-and-draw storage lagoon, (4) a biogas processing system to remove impurities, with the degree of processing dependent on the intended use of the gas, and (5) equipment for biogas use or destruction often including one or more engine-generator sets that combust the biogas to produce electricity for onsite use and/or sale to the local electric utility. The following supplemental use regulations shall apply:

a. *Minimum Lot Size*. 20 acres.

b. The use shall only be permitted as an accessory use to the following permitted Principal Uses: Agricultural Operation, Confined Feeding Operation (CAFO), Confined Animal Operation (CAO), Commercial Stockyards and/or Feedlots, and Equine Activities.

c. Except as otherwise provided for under the provisions of the Pennsylvania Nutrient Management Act, no underground storage, in ground storage, trench silo, earthen bank, stacking area or above ground storage facility related to the anaerobic digester / biogas system shall be located within two hundred (200) feet of from any property line. Additionally, no building, structures, or facility shall be located nearer than three hundred (300) feet to an existing residential building unless the Owner of such residence waives this restriction in writing to the Township.

d. The use shall meet all applicable local, state, and federal regulatory and permitting requirements for air, solid waste, and water.

e. The use's digester and gas collection, control, and utilization system shall be designed with adequate safety measures including the installation of components in accordance with standard engineering practice for handling a flammable gas and to prevent undue safety hazards. The American Society of Agricultural and Biological Engineers (ASABE) Standard EP470, Manure Storage Safety shall be uses for guidance, as needed. A certified professional, qualified to do such, shall furnish and explain all details of construction, operation, maintenance and necessary controls related to the anaerobic digester system. The applicant shall provide a letter from the Cumberland County Conservation District stating that the Applicant's anaerobic digester / biogas system design has been reviewed and approved by the Cumberland County Conservation District and that all regulations and requirements of the Pennsylvania state manure management program have been satisfied. The following standards shall be considered as part of the system's design:

(1) Post "Warning Flammable Gas" and "No Smoking" signs.

(2) Provide appropriate fire protection equipment and biogas leak detection sensors, especially in confined areas.

(3) Install a flare for the anaerobic digestion system unless another option is provided by the manufacturer which adequately addresses conditions to prevent biogas release into the atmosphere.

(4) Locate flares the appropriate distance from the digester and other buildings according to manufacturer's specifications, and electrical code. Install flares a minimum of ten (10) feet above the ground. Locate open flares a minimum distance of fifty (50) feet from the biogas source. Properly ground flares or protect to minimize potential damage caused by lightning strikes.

(5) Provide a flame trap device in the biogas line between the digester and sources of ignition to prevent flame migration from the flare to the gas source or as otherwise recommended by the flame arrester manufacturer.

(6) Use explosion-proof motors, switches and other spark producing devices on all biogas blowers or other equipment installed where biogas is present.

(7) Provide and maintain above-ground permanent markers to indicate the location of underground gas lines to prevent accidental disturbance or rupture. Mark exposed pipe to indicate type of pipe whether gas or other.

(8) *Decommissioning*.

(a) The Owner is required to notify the Township immediately upon cessation or abandonment of the operation. The anerobic digestor / biogas system shall be presumed to be discontinued or abandoned if such system is non-operational for a period of twelve (12) continuous months.

(b) The Owner shall then have six (6) months from abandonment in which to dismantle and remove the system including all related equipment or appurtenances related thereto. If the Owner fails to dismantle and/or remove the solar energy system within the established timeframes, the Township may complete the decommissioning at the Owner's expense.

(c) The system Owner, at the time of application, provide the Township with an estimate of the cost of performing the decommissioning activities required herein, together with an administrative and contingency factor equal to twenty-five (25) percent to account for the cost of obtaining permits to complete said activities. The estimate may include an estimated salvage and resale value, discounted by a factor of twenty (20) percent. The decommissioning cost estimate formula shall be as follows:

[Gross Cost of Decommissioning Activities] + [Administrative Factor of Twenty-five (25) Percent] – [Salvage and Resale Credit of Eighty (80) Percent] = Decommissioning Cost Estimate.

(d) On every fifth (5th) anniversary of the date of providing the decommissioning financial security the anerobic digestor / biogas Owner shall provide an updated decommission cost estimate

based on the formula set forth above with adjustments for inflation and construction cost and value changes. If the decommissioning security amount changes, the Owner shall remit the increased financial security to the Township within thirty (30) days of the approval of the updated decommissioning security estimate by the Township.

(e) Decommissioning security estimates shall be subject to review and approval by the Township and the anerobic digestor / biogas Owner shall be responsible for administrative, legal, and engineering costs incurred by the municipality for such review.

8. *Automobile Car Wash*.

An Automobile Car Wash as defined under Section 3.04(E)3., of this Ordinance shall be permitted as an Accessory Use to a Convenience Store use. The supplemental Use regulations specified for an Automobile Car Wash under Section 3.04(E)3., of this Ordinance shall apply.

9. *Drive-Through Facility*.

A facility that provides or dispenses products or services, through an attendant or an automated machine, to persons remaining in vehicles that are in designated stacking aisles. A Drive-Through Facility is accessory to primary Service or Commercial Uses, such as a financial institution, personal service shop, retail store, eating establishment, convenience store, etc. In these guidelines, a drive-through facility does not include a car wash, parking garage kiosks, or gas pump islands. The following use regulations shall apply:

a. *Lot Size*. Minimum lot size shall be according to the principal permitted use. Lot sizes shall be large enough to efficiently and safely serve the operations of the Vehicle Drive Through Facility while accommodating all necessary elements of good and efficient site design of Vehicle Drive-through Facilities.

b. *Number*. No more than one (1) Drive Through Facility may be permitted per Lot.

c. *Placement*.

(1) Buildings with a Drive-through Facility shall be located as close as possible to the Street line or corner Street frontages for corner sites, to help frame the Street edges. The siting of the Building relative to the Street shall consider the existing and future development on the Street or in the neighborhood.

(2) Sites with multiple commercial Buildings on the property, Drive-Through Facilities shall be located internal to the site away from property corners, intersections of Streets or from the Street frontages, to reduce the visibility of vehicle drive-through traffic on the site from Street view.

d. *Site Access*.

(1) Vehicle access shall be provided pursuant to the requirements of the West Pennsboro Township Subdivision and Land Development Ordinance. The subject site shall have access to an Minor Arterial or Major Collector Street.

(2) Access driveways to Vehicle Drive-through Facilities shall be located as far away as possible from Street intersections and corners and designed in accordance with the applicable Street design standards.

(3) The number of access driveways into a site shall be minimized to reduce conflicts between turning vehicles and other users of the Street, reduce curb cuts and interruptions to the sidewalk.

(4) Vehicle queuing lanes shall be separated from all aisles, shall not result in additional curb cuts along the same Street frontage and shall not have direct ingress and egress from any Street.

(5) Vehicle queuing lanes shall not obstruct or interfere with parking spaces, pedestrian aisles or walkways and loading or service areas.

e. *Parking*.

(1) Surface parking areas shall be located at the side or the rear of the Building away from the public Street.

(2) Parking areas shall not be located between the Building and the Street.

(3) Parking areas shall not convey pedestrians across driveways or vehicle queuing lanes to enter the Building.

(4) The parking areas shall not conflict with the ingress and egress of the vehicle queuing lanes. This can be achieved by locating the parking areas away from the vehicle queuing lanes or clearly delineating the parking areas with appropriate barriers and signage.

(5) Larger parking areas shall be separated into smaller well-defined sections, using a combination of hard and soft landscaping to avoid large, paved surfaces in parking areas.

10. *Electric Vehicle Charging Station (EVCS)*.

A privately owned or publicly accessible parking space that is served by Electric Vehicle charging equipment for the purpose of transferring electric energy to a battery or other energy storage device in an Electric Vehicle. An Electric Vehicle Charging Level shall be defined as the standard indicator of electric force or voltage at which an Electric Vehicle is recharged as follows and as illustrated in Figure 3.01.

a. *Level 1*. A slow charging system with a voltage range of 0 through 120 AC123. For the purposes of a Zoning Permit application, Level 1 EVCS is for private use only.

b. *Level 2*. A medium charging system with a voltage range of 121 through 240 AC124. For the purposes of a Zoning Permit application, Level 2 EVCS is for both private and public use.

c. *Level 3 (DC Fast Charge)*. A fast-charging system with a voltage range of greater than 240 AC125. For the purposes of a Zoning Permit application, Level 3 is for public use only.

d. The following use regulations apply to Level 1, 2, and 3 EVCSs:

(1) All EVCS regulations authorized by this Ordinance shall be read in conjunction with the Parking and Loading standards specified in Section 4.11 of this Ordinance.

(2) A Property Owner shall not install any EVCS on a property until a Zoning Permit has been issued by the Township to the Property Owner.

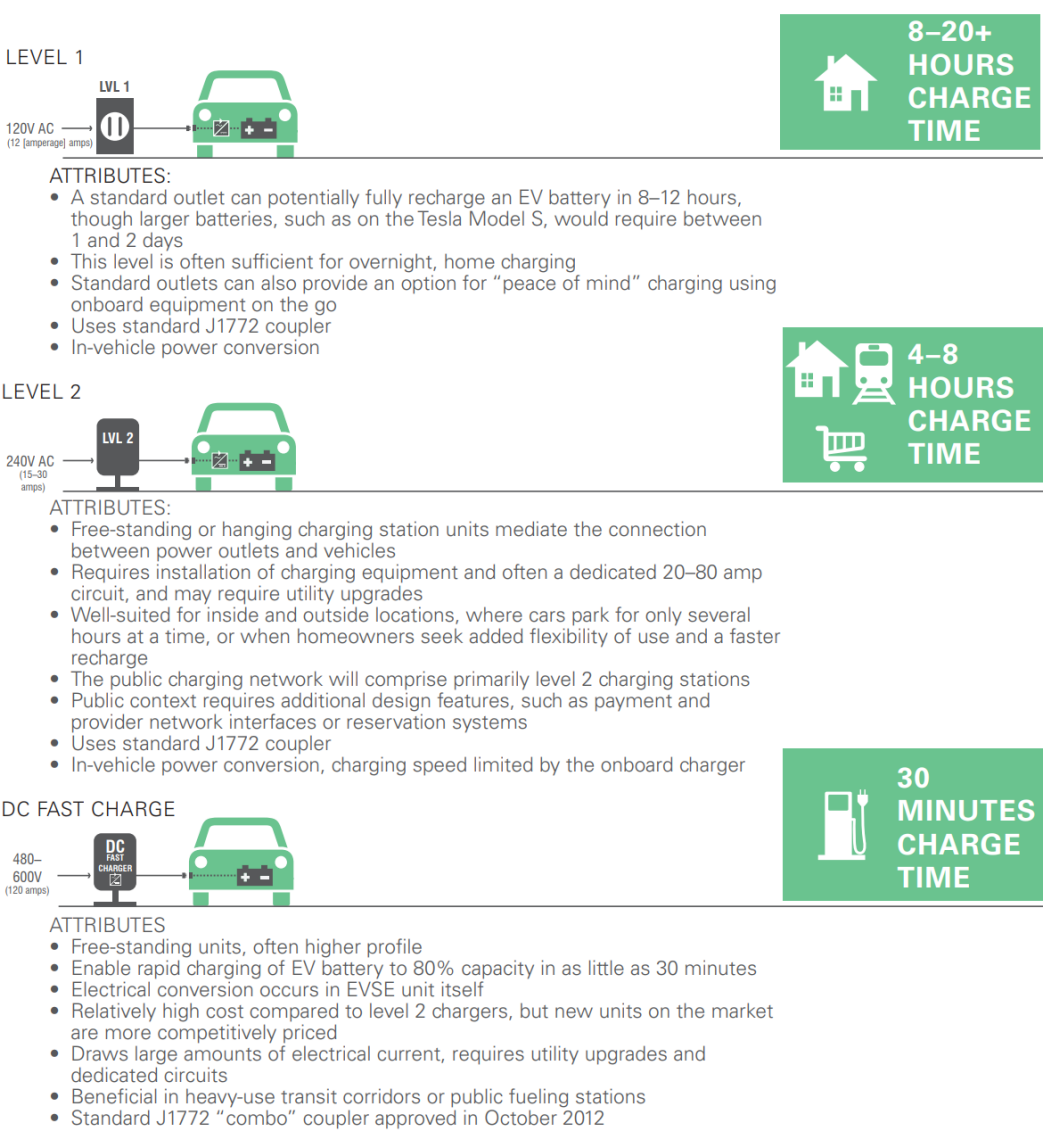
(3) *Electric Vehicle Make Ready System*.

(a) All new, expanded and reconstructed parking areas may provide for the electrical capacity necessary to accommodate the future hardware installation of EVCS through an Electric Vehicle Make Ready System.

(b) Property Owners may apply for a Zoning Permit for an Electric Vehicle Make Ready System at the time of construction or renovation of appropriate charging areas.

(c) A Property Owner who installs an Electric Vehicle Make Ready System rather than an EVCS may not qualify for a reduction to the parking space provision requirements specified in Section 4.11 of this Ordinance until the time the EVCS facility is installed.

Figure 3.01
Electric Vehicle Charging Levels
Source: Siting and Design Guidelines for Electric Vehicle Supply Equipment, November 2012



11. *Farm Occupation*.

An accessory use to an Agricultural Operation at which goods and services are rendered in support of local agricultural operations or to supplement on-farm income. Examples include but are not limited to tractor repair services, custom cabinetry, welding shop, internet-based business, auctions, repair services, catering, Home Occupations, Craftsman Industrial Uses, etc.

12. *Home Occupation*.

A Use that is clearly subordinate and incidental to the Principal Use as a residence and is conducted in a Dwelling Unit by permanent residents thereof by one or more members of the occupying household and does not alter the exterior of the Building or its appearance.

a. The following use regulations shall apply:

(1) *Advertisement*. Offering, displaying or advertising any commodity or service for sale on the Premises is prohibited, except that an identification Sign is permitted in accordance with the regulations of Section 5, Signs.

(2) *Outside Storage*. No materials or products shall be stored outside of a Building.

(3) *Area.* The customary home occupation shall not occupy more than twenty-five (25) percent of the Usable GFA of a Dwelling Unit in which the Home Occupation is operated.

(4) *Employees.* Employment is limited to any member of the immediate household residing in the Dwelling Unit plus one Person not residing in the Dwelling Unit.

(5) *Hours of Operation*. Permitted hours of operation are 7 AM to 6 PM prevailing time, Monday – Friday, and 8 AM to 5 PM prevailing time on Saturdays.

(6) *Limited Attendees.* Up to four (4) attendees may be served or instructed at a time, except as provided for in Family Child Care Home.

(7) *Residence*. The operator of the Home Occupation shall reside in the Dwelling Unit in which the Home Occupation operates.

(8) *Physical Appearance*. The appearance of the Structure shall conform to the general form, function, and character of the area it is located.

(9) *Vehicles*. No more than one (1) motor Vehicle shall be used in connection with a Home Occupation.

(a) The Vehicle shall be of a type ordinarily used for conventional private passenger transportation, such as a passenger automobile, van, or pickup Truck not exceeding a payload capacity of one (1) ton.

(b) The Vehicle shall not be designed to carry more than twelve (12) Persons.

(c) Parking of the vehicle shall be accommodated on site.

13. *Keeping of Chickens*.

The keeping of Chickens in residential zoning districts for personal use and consumption purposes (i.e., non-commercial and non-Agricultural Operations related) shall be permitted as an Accessory Use as specified in Table 3.01, Table of Permitted Uses, and shall abide by the following regulations:

a. *General*.

(1) The keeping of Chickens under this Ordinance shall be permitted in residential zones when in compliance with the provisions of this Article.

(2) The keeping of Chickens shall not be for commercial or Agricultural Operation use purposes.

(3) These regulations do not apply to the raising of poultry and other fowl as an Agricultural Operation use and where such uses are permitted within this Ordinance.

(4) A permittee shall not engage in commercial: (1) chicken breeding; (2) sale of chickens; (3) egg producing (i.e., more than 50% of the total eggs produced); or (4) fertilizer production.

b. *Number of Chickens per Lot*.

(1) Four (4) chickens shall be permitted for the first one half (1/2) acre.

(2) Two (2) additional chicken shall be permitted for each additional one half (1/2) acre, up to a maximum of twelve (12) chickens per Lot.

c. Type. Chickens shall be hens. Roosters and English Gamecocks are prohibited.

d. Coops.

(1) Chicken coops shall:

(a) Have a solid roof.

(b) Be solid on all sides.

(c) Have adequate ventilation.

(d) Provide protection from predators.

(e) Be designed to secure the chickens.

(f) Be readily accessible for cleaning.

(2) Coops shall be either:

(a) Commercially built/designed; or

(b) Built by the Owner.

(3) Coops shall provide a minimum of three (3) square feet per chicken.

e. *Pens*.

(1) Pens shall provide minimum of ten (10) square feet of area for the first chicken, and then an additional three (3) square feet per each additional chicken permitted under Subsection 13.b.(2).

(2) Pens shall be constructed in a way to prevent chickens from roaming free and keep predators from getting into the pen.

(3) The Pen shall be accessible by the hens from their Coop when they are not secured in the Coop.

f. *Location*.

(1) Pens and Coops shall be located in the Rear Yard only and shall meet the setback requirements of the zoning district within which the use is located.

(2) Any part closer than ten (10) feet from any property line shall be screened by closed fencing or solid hedge.

g. *Living Conditions*.

(1) Chickens shall have access to feed and clean water at all times.

(2) Feed shall be secured to prevent rodents or other pests from accessing the feed.

h. *Disposition of Deceased Chickens*. Chicken carcasses shall be disposed of in compliance with 3 Pa. C.S. § 2352, and no Person shall slaughter a Chicken in a residential zone.

14. *Keeping of Honeybees*.

The Keeping of Honeybees in residential zoning districts for personal use and consumption purposes (i.e., non-commercial and non-Agricultural Operations related) shall be permitted as an Accessory Use as specified in Table 3.01, Table of Permitted Uses, and shall abide by the following regulations:

1. It shall be the duty of the applicant to maintain each colony so as to not create a public nuisance;

2. Colonies shall be maintained in movable hives;

3. Hives shall be situated to maximize sunshine exposure and/or natural wind protection;

4. In no case shall hives be located within twenty-five (25) feet of any property line;

5. All bee hives must be registered in accordance with the PA Department of Agricultural, Entomology Section; and,

6. Hives shall not be oriented to children's play areas.

16. *Keeping of Domestic Livestock*.

Any activity (except for the Keeping of Chickens) involving the breeding, raising, caring for, housing, and principally the hobby/personal use of domestic animals and products derived from those animals by the occupant, owner or leaser of the lot on which such use is located. Such animals may include, but need not be limited to, equine species such as horses and ponies, camelids such as llamas and alpacas, and other species not defined as pets or regulated elsewhere in this ordinance. Incidental sales of animals or animal products directly associated with the use may be permitted, however, no stock-in-trade sales, sales Building or sales area as such shall be permitted. A domestic livestock use shall be accessory to a dwelling located on the same lot. This definition excludes all commercial animal operations such as, but not limited to, livestock production for wholesale and retail markets, boarding and riding stables and liveries. and shall abide by the following regulations:

a. *General*.

(1) The Keeping of Livestock under this Ordinance shall be permitted in residential zones when in compliance with the provisions of this Article.

(2) The Keeping of Livestock shall be for non-commercial and non-Agricultural Operation purposes.

(3) These regulations do not apply to the Keeping of Livestock as an Agricultural Operation use and where such uses are permitted within this Ordinance.

b. The keeping of any livestock that existed lawfully prior to the effective date of this Ordinance that is not permitted under this title may be continued as a Nonconforming Use, except that if the Nonconforming Use is discontinued for one year or more it shall then be deemed abandoned and any future keeping of animals shall be in conformity with this Ordinance.

c. All structures used to house noncommercial livestock shall be prohibited from placement in the front yard.

d. *Wetlands and Waterways*. No animal shall have direct access to a jurisdictional wetland, impoundment, stream, spring or well on the lot on which the small-scale livestock use is located. However, stabilized stream crossing areas designed and constructed as such shall be exempted from this requirement.

e. Table 3.08 specifies the requirements based on the size of animal for the Keeping of Livestock as an Accessory Use.

f. Exceptions to these standards shall be presented by the Property Owner through an alternative animal management plan to be heard by the Board of Supervisors. Approval of the plan by the Board of Supervisors shall be considered a Conditional Use Use and shall be subject to all required conditions. If an approved plan is violated or causes situations that become a nuisance to adjoining property owners, the use shall be subject to revocation by the Zoning Officer.

g. *Living Conditions*.

(1) Livestock shall have access to feed and clean water at all times.

(2) Feed shall be secured to prevent rodents or other pests from accessing the feed.

(3) A Veterinarian shall be identified and used for any necessary medical care, and such professional shall be identified in the Applicant's zoning permit application.

(4) All outdoor pasture/recreation areas shall be enclosed with fencing to prevent the escape of the animals; such fencing shall be set back at least ten (10) feet from all property lines.

Table 3.08, Keeping of Livestock Requirements.

Livestock Group Type	Livestock Group Description[1]	Minimum Lot Size
Group 1	Animals whose average adult weight is less than 10 lbs. shall be permitted at an animal density of 12 per acre (or as otherwise noted herein), with a maximum number of 50 animals.	3 acres
Group 2	Animals whose average adult weight is between 10 and 65 lbs. shall be permitted at an animal density of two per acre, with a maximum number of 20 animals.	3 acres
Group 3	Animals whose average adult weight is greater than 65 lbs. shall be permitted at an animal density of 1 per acre.	3 acres

[1]See Table 1 Standard Animal Weights – https://www.clintoncountypa.com/home/showpublisheddocument/2980/637387022614930000

g. *Disposition of Deceased Livestock*. Livestock carcasses shall be disposed of in compliance with (3 Pa. C.S. §2352) and no Person shall slaughter Livestock in any residential zone.

17. *Manure Storage Facility*.

An accessory use to an Agricultural Operation that is a permanent Structure or facility, or portion of a Structure or facility, utilized for the primary purpose of containing manure. Examples include liquid manure structures, manure storage ponds, component reception pits and transfer pipes, containment structures built under a confinement Building, permanent stacking and composting facilities and manure treatment facilities. The term does not include the animal confinement areas of poultry houses, horse stalls, freestall barns, or bedded pack animal housing systems. The term does not include Anerobic Digestor / Biogas System as defined herein. The following performance shall apply:

(a) All manure storage facilities shall be designed in compliance with the guidelines outlined in the publication Manure Management for Environmental Protection, Bureau of Water Quality Management Publication No. 43, and any revisions, supplements and replacements thereof, published by the Pennsylvania Department of Environmental Protection.

(b) All manure storage facilities' designs shall be reviewed by the Cumberland County Conservation District. The Applicant shall furnish a letter from the Conservation District attesting to approval of the design of the proposed facility.

(c) Construction and subsequent operation of the waste storage facility shall be in accordance with the permit and the approved design. Any design changes during construction or subsequent operation shall require the acquisition of another review by the County Conservation District a record of which shall be filed with the Zoning Officer.

18. *No-Impact Home-Based Business*.

A business or commercial activity administered or conducted as an Accessory Use which is clearly secondary to the Use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the Premises, in excess of those normally associated with residential Use. The business or commercial activity shall satisfy the following requirements:

a. The business activity shall be compatible with the residential use of the property and surrounding residential uses.

b. The business shall employ no employees other than family members residing in the dwelling.

c. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

d. There shall be no outside appearance of a business Use, including, but not limited to, parking, Signs or lights.

e. The business activity may not Use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.

f. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential Use in the neighborhood.

g. The business activity shall be conducted only within the dwelling and may not occupy more than twenty-five (25) percent of the habitable GFA.

h. The business may not involve any illegal activity.

19. *Outdoor Display and Sales*.

The Outdoor Display and Sales of merchandise or other items offered for sale or advertisement of a Principal Retail or Service Use. The following use regulations shall apply:

a. Outdoor displays may not extend more than five (5) feet from the Building Façade and in no instance shall merchandise or other items for sale or advertisement be located within an established public Right-of-Way line. In the case of Street Lines and Building Lines being coincident, there shall be no outdoor display;

b. Merchandise or other items displayed as the Accessory Use shall be restricted to those items or merchandise which are sold at the Principal Use;

c. Notwithstanding any provision of this Article, the public way, Street, Sidewalk, Curb, and all means of ingress and egress to the Structure containing the Principal Use shall be maintained free of obstructions, merchandise or other items. A minimum of five (5) feet of Sidewalk shall remain available and obstacle-free for passing pedestrians.

20. *Short-Term Rental*.

The Accessory Use of a Building (except a Hotel, Motel or Bed and Breakfast) where, for compensation, temporary – i.e., less than thirty consecutive (30) days – lodging is provided for the transient guests and meals are not provided. The following use regulations shall apply:

a. *Permit Required*.

(1) No owner of any property in the Township shall operate a Short-Term Rental in the Township without obtaining a Zoning Permit from the Zoning Officer. Operation of a Short-Term Rental without a permit is a violation of this Ordinance. Permits may be transferable to any new owner of the property provided an application with updated contact information is submitted to the Township and all prior violations of this Ordinance have been remedied.

(2) The issuance of a Zoning Permit is not a warranty that the premise is lawful, safe, habitable, or in compliance with this Ordinance.

(3) *Permit Application Requirements*. Short-Term Rental permit applications shall contain all of the following information:

(a) The name, address, telephone number and email address of the owner.

(b) The name, address and 24-hour telephone number of the designated Local Property Representative as required by Subsection 21.c.(1) of this Section.

(c) Floor plan identifying rooms on all floors, specific location of bedrooms, and location of any pools labeled as either in-ground or above-ground.

(d) The total number of bedrooms.

(e) If the Building is a multi-unit Structure, the total number of dwelling units in the Structure and the number of dwelling units being used as Short-Term Rentals.

(f) A diagram or aerial photograph showing the location and number of on-site parking spaces.

(g) Copy of current Cumberland County Hotel Room Excise Tax Certificate.

(h) Copy of current Pennsylvania Sales and Use Tax Permit or signed attestation that a third party collects this on behalf of the Short-Term Rental owner.

(i) Signatures of the owner and the designated Local Property Representative.

(j) By signing the Short-Term Rental application, the owner gives authorization to the Township to enter onto the property to inspect and ensure compliance with this Ordinance and all applicable ordinances and regulations administered and enforced by the Township.

(k) Written notice to an applicable homeowners' association, indicating the intent to make application for and Use the subject residential property for a Short-Term Rental, when applicable.

(4) A separate Short-Term Rental Zoning Permit is required for each Dwelling Unit; for Two-Family or Multi-Family Dwellings, a separate Permit shall be required for each Dwelling Unit being rented as a Short-Term Rental.

(5) A Short-Term Rental Zoning Permit is effective for a period of one (1) annual term calendar year, or until any of the conditions of the Short-Term Rental which are governed by this Ordinance are changed, whichever shall first occur. Permits must be renewed annually. Short-Term Rental permits may be applied for up to ninety sixty (96) days before the start of the annual term expiration of a Short-Term Rental Permit.

b. *Operating Standards*.

(1) *Local Property Representative*. The Landowner must designate a Local Property Representative who shall be available twenty-four (24) hours per day, seven (7) days per week, for the purpose of (1) responding within one hour to complaints regarding the condition, operation, or conduct of occupants of the short-term rental, and (2) taking remedial action to resolve any such complaints. The name, address, and telephone contact number of the Landowner and the local property representative shall be kept on file at the Township. The failure to provide the contact information, failure to keep the contact information current, failure to respond in a timely manner to complaints, or the occurrence of repeated complaints may result in the suspension or revocation of approval and/or civil or criminal penalties.

(2) *Restrictions on Use*. A renter may not Use a short-term rental for a purpose not incidental to its Use for lodging or sleeping purposes. This restriction includes using the rental for a wedding, banquet, reception, bachelor or bachelorette party, concert, fundraiser, sponsored event, or any similar group activity.

(3) *Parking*. There will be no demand for parking beyond that which is normal to the current residential property Use and no unusual or excessive traffic to and from the premises.

(4) *Signage*. No outdoor advertising Signs related to the rental dwelling shall be allowed on the site.

(5) *Insurance*. The Landowner shall maintain on file at the Township an up-to-date certificate of insurance documenting that the dwelling is insured as a short-term or vacation rental.

(6) Outdoor parking for overnight and day guests shall be limited to available parking areas on the Short-Term Rental property. Parking for Short-Term Rental guests shall not include spaces in any private, community, or on any lawns or vegetated areas. All off-street parking spaces shall be properly marked to ensure guests are aware of the location of proper onsite parking.

(7) Overnight occupancy of recreational vehicles, camper trailers, and tents at the property where the Short-Term Rental is located is prohibited. Outdoor overnight sleeping of occupants or guests of the Short-Term Rental is prhibited.

(8) A Short-Term Rental shall not have any outside appearance indicating a change of Use.

(9) Subleasing all or a portion of the dwelling unit is prohibited.

21. *Signs*.

Signs, as regulated under Section 5 of this Ordinance, may be permitted as an Accessory Use to the Principal Use.

Section 3.06 Temporary Uses

(A) *General*.

1. Temporary Uses are limited to those expressly regulated in this Ordinance as well as those that in the Determination of the Township Board of Supervisors are deemed appropriate as a Temporary Use.

2. A Temporary Use that is conducted annually or on a similar recurring basis as determined by the Township and has received use approval from the Township. The temporary Use may be permitted to recur thereafter with administrative approval from the Zoning Officer provided that the event location, format, and operations have not substantially changed from the original Conditional Use approval and that the conditions established in the original approval are deemed applicable. All other Temporary Uses shall receive Conditional Use approval for each occurrence.

(B) *Temporary Uses*.

1. *Model Home and/or Subdivision Sales Office*.

A Building Structure used for the temporary conduct of the sales of dwelling units proposed for construction and sale within an approved subdivision. The following use regulations shall apply:

a. Such use shall be located in a subdivision that is owned by or held in trust for the subdivision Developer proposing to erect the dwelling units for sale and/or proposing to operate the sales office.

b. Such use shall meet the bulk and area requirements of the zoning district within with the use is located.

c. Such use shall be meet the land development design standards as specified by the West Pennsboro Township Subdivision and Land Development Ordinance.

d. Such use shall be permitted for a period not to exceed thirty (36) months from the date of approval for the sales offices and/or model homes. A time extension may be granted upon the issuance of a new Zoning Permit.

e. The Model Home and/or Subdivision Sales Office use shall be discontinued on or before the original termination date set forth under the Zoning Permit, upon expiration of the extension granted by the Zoning Officer, or after six (6) months following sale or occupancy of all Lots in the subdivision other than the model homes, whichever occurs first.

d. Such use shall not serve as sleeping quarters.

2. *Open Air Market*.

An outdoor market event for the retail sale of produce or other grown products, whether operated by a single vendor or composed of stalls, stands or spaces rented or otherwise provided to vendors. Such products shall not include the sale of machinery equipment; vehicles; livestock; domesticated, wild, and exotic animals; firearms; ammunition; knives; and other lethal weapons. The use does not include the outside display and sales of merchandise as an incidental part of retail activities regularly conducted from a permanent Building or other areas immediately adjacent to, and upon the same Lot as, such Building. The following use regulations shall apply:

a. A plan depicting the layout of the site, including dimensions, of the sales area, accessways, parking areas and location of trash receptacles.

b. Unless otherwise authorized in writing by the Township Board of Supervisors, operation shall be restricted between the months of May – October, last no longer than three (3) consecutive calendar days, and may only operate during the time between 7:00 AM prevailing time to dusk.

c. The means, such as stalls, tables or other structures, by which merchandise is to be displayed.

d. Vehicle parking shall be provided on-site and shall comply with the Off-Street Parking standards specified in Section 4.11 of this Ordinance.

e. There shall be no less than one (1) trash receptacle per 1,000 square feet of sales area, all trash receptacles shall be emptied regularly so as not to overflow, and litter and debris shall not be permitted to accumulate.

f. Merchandise, stalls or other materials shall not be stored outdoors while the use is not open for business.

g. The operation shall not disturb the tranquility of residential areas or other areas in close proximity or otherwise interfere with the reasonable use and enjoyment of neighboring property by reason of excessive noise, traffic or overflow parking.

h. The retail sales area shall be set back at least twenty-five (25) feet from all property lines and shall be calculated as part of the maximum permitted lot coverage, regardless of its surface treatment.

i. Any such event held on public property shall:

(1) indemnify, save harmless, and defend the Township of any public property upon which the Open Air Market shall be held and their respective officers, agents, and employees from any and all claims, suits, or actions for injuries, death and/or property damage arising out of the Temporary Outdoor Event where the claim, suit, or action was caused by the Applicant, its officers, agents, and employees, the event participants, support staffs, event officials, volunteers, medical support, technical support, media vehicles, event communications staffs, the traveling public, general public, or spectators; and

(2) shall provide a certificate of insurance showing: (a) general liability insurance for bodily injury and property damage in the minimum amount of $250,000.00 per Person and $1,000,000.00 per occurrence to cover any loss that might occur as a result of the Permitted use of the local and state rights of way or private property that might otherwise arise out of or be connected with the Open Air Market; (b) occurrence-based coverage; and (c) the Township named as the additionally insured. The Applicant warrants the information in the insurance certificate is accurate.

3. *Temporary Construction Site Trailer*.

A Manufactured Home or industrialized housing type Structure used only for office facilities or for storage of construction-related equipment or materials. The following use regulations shall apply:

a. *Minimum Off-Street Parking Calculations*. A mud free parking area shall be provided containing one (1) parking stall, ten (10) feet by twenty (20) feet minimum size for each ten (10) Lots in the subdivision. Access Aisles shall be a minimum twenty (20) feet in width.

b. Temporary Construction Site Trailers may be established via the Township Zoning Permit process, when proposed for an approved construction project.

c. Temporary Construction Site Trailers shall observe the minimum Setback requirements imposed upon the Township approved Principal Use of the subject Lot.

d. Temporary Construction Site Trailers shall not serve as sleeping quarters.

e. Temporary Construction Site Trailers when used as occupied contractor, lease or sales offices shall be equipped with appropriate skirting or safety fence/mesh material to prevent children and animals from crawling under said Structure.

f. A Temporary Construction Site Trailer may serve as a temporary lease or sales office until a model housing unit is complete, provided the following criteria are met:

(1) A hard paved driveway and parking Lot Area shall be provided containing one (1) parking stall, ten (10) feet by twenty (20) feet in size, for each ten (10) Lots in the subdivision.

(2) A Pennsylvania Department of Transportation Highway Occupancy or Township Street Occupancy Permit shall be required if the parking Lot Area's driveway accesses such roads.

(3) The temporary sales operation shall only be permitted between 7:00 AM to 7:00 PM prevailing time.

g. If restroom facilities do not exist in the Temporary Construction Site Trailer, portable toilets shall be provided; the number of which shall be as determined by the Township Sewage Enforcement Officer.

h. No combustible materials shall be stored in the Temporary Construction Site Trailer.

i. All Temporary Construction Site Trailers shall be removed within forty-eight (48) hours of the completion of construction or the expiration of the Zoning Permit for the construction to which it is related, whichever occurs first.

4. *Temporary Outdoor Event and/or Retail Sales*.

A Temporary Outdoor Event and/or Retail Sales such as a carnival, circus, Street celebration, race, bazaar, market, procession, assemblage, temporary sales tents (e.g., fireworks, flowers, etc.) or other similar outdoor event. Such events may be on a Street, Open Space, or other public space in which public access is wholly or partially restricted. The event may include the sale of goods. The following use regulations shall apply:

a. Operation shall be restricted to no more than three (3) times per calendar year and last no longer than seven (7) consecutive calendar days, and during the time between 9:00 AM to 5:00 PM prevailing time.

b. The Applicant shall indemnify, save harmless, and defend (if requested) the Township and the Owner(s) of any private or public property upon which the event/activity will be held and their respective officers, agents, and employees from any and all claims, suits, or actions for injuries, death and/or property damage arising out of the Temporary Outdoor Event where the claim, suit, or action was caused by the Applicant, its officers, agents, and employees, the event participants, support staffs, event officials, volunteers, medical support, technical support, media

vehicles, event communications staffs, the traveling public, general public, or spectators.

c. A certificate of insurance must be provided showing: (a) public liability insurance for bodily injury and property damage in the minimum amount of two hundred fifty thousand dollars ($250,000) per Person and one million dollars ($1,000,000) per occurrence to cover any loss that might occur as a result of the Permitted use of the local and state rights of way or private property that might otherwise arise out of or be connected with the event; (b) occurrence-based coverage; and (c) the Township and applicable public and private Landowner's named as the additional insured. The Applicant warrants the information in the insurance certificate is accurate.

d. The event location or route shall be appropriately secured with proper security and safety measures taken to protect the event participants, support staffs, event officials, volunteers, medical support, technical support, media vehicles, vehicle escort services, maintenance and protection services, the traveling public, event communications staffs, the general public, and spectators. Proper emergency medical services shall be provided. Local fire departments, the public, and the traveling public shall be notified in advance of the event.

e. Written authorization from the Pennsylvania Department of Transportation (PennDOT) via a Special Event Permit granting the Applicant permission to Use the Right-of-Way of a state roadway. The Applicant shall provide the Township with a complete copy of the Special Event Permit and associated documentation. All information shall be submitted to the Zoning Officer.

f. Written permission for use of any private property must be obtained from the Owner(s), or other Person with authority to grant same, and be submitted to the Zoning Officer.

ARTICLE 4 SUPPLEMENTAL REGULATIONS

Purpose. The purpose of these supplemental zoning regulations is to set specific performance standards related to the Use of a Lot including accessory Buildings and Structures, buffering and screening, off-street parking, encroachments, outdoor storage, etc. Use requirements contained elsewhere in this Ordinance apply to all Uses and Structures, whether or not specifically listed in this Article. Likewise, the provisions of this Article shall not be interpreted as relief from the requirements of this Ordinance or any other requirements of the Township. Certain of the following supplemental regulations or provisions thereof, to the extent specified therein, are applicable to any and all existing and proposed Uses of land, Buildings, or Structures.

Section 4.01 Accessory Buildings and Structures

(A) *General*.

1. An accessory Building or Structure not attached to the principal Structure may be located in any required side or rear yard provided.

2. All such buildings or structures taken together shall not occupy more than thirty (30) percent of the area of the required rear or side yard where so located.

3. When an accessory Building or Structure is attached to the principal Building it shall comply in all respects with the requirements of this Ordinance applicable to the principal Building.

4. An accessory Building or Structure on that portion of a Lot not included in any required yard shall conform to the height regulations specified in the applicable zoning district.

5. No accessory Building or Structure shall project nearer to the Street on which the principal Building fronts than the minimum Building setback distance for the principal Building.

6. All accessory buildings or structures in excess of three hundred eighty-four (384) square feet must comply with the Building setbacks for the zoning district in which it is located.

(B) *Fences or Walls*. Unless otherwise prescribed in this Ordinance, fences or walls shall be erected, altered and maintained in a Structurally Sound in accordance with the following requirements:

1. Fences and walls (including retaining walls) may be erected, altered, and maintained within yards provided that any such fence or wall shall not exceed four (4) feet in height.

2. No wall, fence, Sign or other Structure shall be erected or altered, and no hedge, trees, shrubs or other growth shall be maintained or permitted which may cause danger to traffic or a Street or public road by obscuring the view.

3. No fence, wall or other Structure shall be erected or maintained within the Right-of-Way of any Street, drainage or sewer Right-of-Way, or any other public easement.

4. A fence may be erected higher than four (4) feet, but shall not exceed six (6) feet in the following instances:

    a. A fence up to six (6) feet in height is permitted to enclose a swimming pool, provided such fence and pool are located within the rear yard and at a minimum of ten (10) feet from any property line.

b. A fence up to six (6) feet in height is permitted to enclose a patio, provided such fence and patio are located within the rear yard and at a minimum of ten (10) feet from any property line.

c. A fence six (6) feet in height is permitted in the rear yard area if located outside the required rear and side Yard Setbacks.

5. Notwithstanding the requirements in Subsection 4a., 4.b. and 4.c. above, commercial and industrial uses are permitted to exceed the six (6) foot maximum fence or wall requirement in accordance with the Landscaping, Buffering, and Screening requirements of the West Pennsboro Township Subdivision and Land Development Ordinance.

Section 4.02 Buffering, Landscaping, and Screening

The current provisions of the Landscaping, Buffering, and Screening requirements of the West Pennsboro Township Subdivision and Land Development Ordinance are incorporated by reference in their entirety and made a part of this Ordinance. Accordingly, any relief from the provisions of this Ordinance and the provisions of the West Pennsboro Township Subdivision and Land Development Ordinance incorporated herein, may only be granted by a variance approved by the West Pennsboro Township Zoning Hearing Board in accordance with the procedures and standards set forth in Section 1.14 of this Ordinance.

Section 4.03 Bulk and Area Modifications and Exceptions

(A) *Height Modifications*.

1. Typical rooftop appurtenance structures or equipment projecting above the highest point on the roof and not intended for human occupancy such as air conditioners, antenna, architectural screening of rooftop appurtenances, chimneys, church steeples, church spires, elevator penthouses, mechanical equipment, vent pipes and water towers shall not be included when calculating Building Height.

2. Typical roof top appurtenances shall not exceed twenty-five (25) feet in height above the highest point on the roof and must be setback from the property boundary by a distance equal to or greater than their height above the highest point on the roof.

3. Typical Building appurtenances do not include structures such as alternative tower structures, antennas, antenna support structures, monopoles or tall structures that are part of a personal wireless service facilities.

4. For all residential uses, accessory Buildings shall not exceed the maximum height requirements specified in the applicable zoning under Article 2 of this Ordinance.

5. *Height Exceptions*. The height regulations do not apply to the following structures or projections provided such structures or projections are set back a horizontal distance at least equal to their height from any property line:

a. Water towers, antennas, utility poles, smokestacks, chimneys, farm silos, windmills, flagpoles, or other similar structures;

b. Rooftop structures for the housing of elevators, stairways, water storage tanks, ventilating fans, and other mechanical appurtenances; and,

c. Parapet walls or cornices used solely for ornamental purposes if not in excess of five (5) feet above the roof line.

6. In no case shall any freestanding or rooftop Structure above the maximum permitted height be used for the purpose of providing additional floor space for residential, commercial or industrial purposes.

(B) *Lot Area*.

1. In any residential district where a public sewer is not accessible, the Lot area shall be not less than one (1) acre.

2. The minimum required Lot areas specified for the A, R1, and R2 Zones under Article 2 of this Ordinance may be modified through the application of the Conservation Subdivision Design standards specified under Section 4.05 of this Ordinance.

(C) *Lot Frontage*. Except for a nonconforming Lot, all Lots must Abut a public Street and meet the Lot width requirement in the district in which it is located.

(D) *Projections into Yards*.

1. Uncovered stairways and necessary landings may project into a required yard to a distance of not more than four (4) feet, provided that such stair and landing shall not extend above the entrance floor of the Building, except for a railing, not to exceed three (3) feet in Height.

2. Uncovered porches or decks, when constructed more than six (6) inches above the finished grade level may project into a required yard setback to a distance of not more than five (5) feet.

3. Uncovered patios and walkways at ground level elevations may be located in the required side and rear yards not closer than ten (10) feet to any adjacent property line and may project into front yards up to fifteen (15) feet.

5. Apparatus or architectural structures needed for efficient operations of solar energy systems, including but not limited to overhangs, insulating walls and roofs, solar collectors or reflectors, may project into a required yard not more than four (4) feet.

6. Bus shelters, open fire escapes, minor public utility structures, articles of ornamentation or decoration, light fixtures, fences, hedges and retaining walls, sidewalks or walkways on grade, fences, ADA ramps, flagpoles for official government flags of the United States and its political subdivisions, sidewalks, walkways or ramps when not connected to a Building, vegetation, landscaping materials, decorative lawn ornaments, bird feeders, handrails along sidewalks or ramps may project into any required yard.

(E) *Yard Regulations*.

1. An accessory Building shall not be erected or altered within any front yard except as may be permitted under Section 4.01 of this Ordinance.

2. Parking shall not be permitted in a front yard within a residential district, except in permitted driveways.

3. *Double Frontage Lots*. Double frontage Lots shall provide the required front yard along each Street.

4. *Side Yard, Corner Lot*. On a corner Lot, the Side Yard abutting the Street shall be considered a Front Yard and have a setback equal to the setback of the Front Yard required in the district and shall be subject to all Front Yard requirements of this Ordinance. Where conflicts exist in Side Yard setback requirements standards, the requirement of this subsection shall apply.

5. Where a side wall of a Building is not parallel with the side yard Lot line or where a side yard is irregular, the average side yard may be considered the required minimum width, provided that the side yard shall not be narrower than five (5) feet nor less than one-half (1/2) the required minimum width at any point. The average side yard shall be determined by establishing the average of the distance from the two closest corners of the principal Building and the side property line. The averaged side yard distance shall be measured from the center of the principal Building.

6. *Rear Yard Where Lot is Irregularly Shaped*. In the case of an irregular, triangular or gore-shaped Lot, the required minimum depth of a rear yard may be deemed to be the average depth, provided that no rear yard so averaged shall be less than ten (10) feet nor one-half (½) the required minimum depth at any point. The average rear yard shall be determined by establishing the average of the distance from the two (2) closest corners of the principal Building and the rear property line. The average rear yard distance shall be measured from the center of the principal Building.

7. No Side Yard or Rear Yard shall be required where such Yard abuts an operating railroad Right-of-Way.

8. *Front Setback of Buildings on Built-Up Streets*. Where at least two (2) adjacent buildings within one hundred (100) feet of a property are set back a lesser distance than required, the average of the lesser distances becomes the required minimum front setback for the property. However, in no case shall the setback line be less than ten (10) feet from any abutting street Right-of-Way line.

9. *Special Agricultural Setback Requirements*.

   a. Except as provided for in the Subsection 9.b., below, no area for the storage or processing of garbage or spent mushroom compost, structures for the cultivation of mushrooms, shall be permitted within five hundred (500) feet of any land within any residential or the mixed-use zones. The Board of Supervisors may, as a Conditional Use, however, reduce the governing zoning district's setback requirements where it is shown that, because of prevailing winds, unusual obstructions, topography, or other conditions, a lesser distance would protect adjoining lands from odor, dust, or other hazards. In no case, however, shall the Board of Supervisors reduce the special setback to less than two hundred (200) feet. The burden shall be upon the Applicant to prove that a lesser distance would not be detrimental to the health, safety, and general welfare of the community.

   b. On any separate non-Agricultural parcel:

      1. No shrub shall be planted within ten (10) feet of any land used for Agricultural purposes;

      2. No tree shall be planted within thirty (30) feet of any land used for Agricultural purposes.

Section 4.04 Commercial Vehicles

(A) One (1) Commercial Vehicle not exceeding twenty-five (25) feet in length may be parked on an occupied Lot in any residential district specified under Article 2 of this Ordinance, between the Street line and the principal Building.

(B) Commercial farm vehicles are permitted as accessory to a principal Agricultural Use located in a residential district specified under Article 2 of this Ordinance.

Section 4.05 Conservation Design Standards

(A) *General*.

1. *Purpose*. To encourage efficient, compact, and innovative single-family residential land development that conserves open space and protects environmentally sensitive areas from development pressures, it is the express intent of this Section that the subdivision of new residential lots or the development of new dwelling units within the Township shall be designed using these Conservation Design Standards.

2. *Applicability*. The conservation design standard specified hereunder shall be applicable to the zoning districts specified in Table 4.01.

Table 4.01, Conservation Design Applicability

Zoning District	Sliding Scale Standards [See Section 4.05(B)]	Cluster Development Standards [See Section 4.05(C)]
Agriculture District (A)	Required	Not Permitted
Low Density Residential District (R1)	Not Permitted	Required

(B) *Sliding Scale*. Table 4.02 shall be used to determine the permissible number of lots which may be subdivided, or the number of new principal dwelling units that may be established without the need to gain approval for a Cluster Development in accordance with Subsection (B) of this Article.

Table 4.02, Total Permissible Number of Residential Lots / or Principal Dwelling Units

Lot Area (Acres)		tal Number of Lots that may be Subdivided and/or Principal Dwelling Units that may be Established
At least	Less than	
2.75	10	1
10	20	2
20	30	3
30	40	4
40	50	5
50 or more		6, plus 1 additional dwelling unit per each additional 20 acres

1. The determination of eligible land for such developments specified in Table 4.02 above shall be based upon all contiguous land within the appliable zoning district held in single and separate ownership, which was held by the landowner or their predecessor(s) in title on the effective date of this Ordinance. For the purposes of this Subsection, land held in single and separate ownership shall be considered to be contiguous regardless of whether:

a. Such land is divided into one or more lots, parcels, or tracts;

b. Such land was acquired by the landowner at different times or by different deeds or other means; and,

c. Such land is separated by public or private streets or Rights-of-Way.

2. If such land was not classified within the applicable zone on the effective date of this Ordinance, the eligibility for development under this Subsection, shall be based upon the contiguous land held in single and separate ownership on the date such land was first rezoned to the Zone.

3. Any subdivision or land development plan hereafter filed shall specify which lot or lots shall carry a right of further subdivision or development, as provided for in this Subsection of the Zoning Ordinance. Such information shall also be included in the deed for any new lots. If this information is not included on a subdivision or land development plan, it shall be presumed that the largest lot remaining after the subdivision shall carry the right of further subdivision or land development under this Section of the Zoning Ordinance.

4. The number of lots which may be created, or single-family dwellings which may be established, shall be fixed according to the size of the parent tract. This number shall not be increased by the subdivision of such parent tract. Any subsequent owner of a parent tract, land remaining in the parent tract after subdivision, or land which was formerly part of a parent tract, shall be bound by the actions of his predecessor.

(C) *Cluster Development*.

1. These cluster development standards are intended to blend various residential development types amid substantial areas of the Township that are characterized by natural sensitivity, productive farmlands and/or public parklands. It is the express purpose to offer a density bonus and flexible design standards as enabled in this Ordinance for the preservation and protection of natural-cultural features and/or the provision of open space preservation. Clustering, as defined herein, may be arranged in many design configurations on a prospective lot or lots.

2. The minimum lot area devoted to a cluster development shall be four (4) acres and the Applicant shall demonstrate an approved means of water supply and sewage disposal that will serve each dwelling unit.

3. *Planning Considerations*. To enhance compatibility between proposed residential developments within the Agricultural Zoning District (A), each application for approval of new dwelling units/lots and/or each application for conditional use approval for a cluster development within the A Zone shall include a scaled drawing showing all of the potential residential lots permitted on the farm, as determined below.

a. In reviewing proposed residential development the Applicant must demonstrate to the satisfaction of the Board of Supervisors prior to approval that the design and function of the proposed development will:

(1) Minimize the loss of valuable farmland;

(2) Cluster residential lots on the subject property and, if applicable, with those lots contained on adjoining properties;

(3) Minimize the length of property lines shared by all residential lots and adjoining farms;

(4) Assure adequate vehicular access to future residences not currently proposed;

(5) Assure that the proposed sketch plan can comply with the Subdivision and Land Development Ordinance;

(6) Make use of existing public sewer and/or public water facilities if they are available; and,

(7) Minimize individual driveway connections onto existing roads.

4. *Delineation of Required Open Space*. Cluster developments are characterized by required open space as defined herein. However, Applicants may opt to provide for future agricultural use open space provided that the planning considerations specified in Subsection (C)3. above are satisfied and suitable permanent agricultural preservation easements are recorded in a form acceptable to the Township Solicitor; in such cases public access shall not be required to such agricultural areas. Open spaces can also be used for central sewer and water facilities provided such facilities are suited, designed and operated in a manner compatible with the permanent protection of the open space without adverse impact. The minimum open space requirements for each zone in which cluster developments are permitted as follows:

a. Low Residential (R1) Zone = 30% of the lot area.

b. Medium Density (R2) Residential Zone = 25% of the lot area.

5. *Identification of Required Open Space*. As part of the site planning process for the cluster development, the Applicant shall be required to prepare a detailed natural and cultural features inventory of the site. Such features shall become all or part of the required open space. Qualified experts must identify, describe, and plot each of the following found on the proposed site:

a. *Primary Conservation Features*. The following features must be undisturbed and successfully integrated within the cluster development's open space:

(1) 100-year floodplains;

(2) Steep slopes greater than twenty-five percent (25%);

(3) Wetlands, streams, ponds, or other waterways;

(4) Sinkholes, caves, or rock outcroppings;

(5) Riparian Buffers, as regulated Section 2.14 of this Ordinance; and,

(6) Greenway corridors as identified in the current Cumberland County Comprehensive Plan and Land Partnerships Plan.

b. *Secondary Conservation Features*. The following features shall be undisturbed and successfully integrated within the cluster development's open space:

(1) Productive agricultural soils;

(2) Steep slopes greater than fifteen (15) percent;

(3) Wetland margins, as defined herein;

(4) Significant geologic features;

(5) Scenic vistas;

(6) Threatened or endangered species habitats as identified in the most recent inventory of the Pennsylvania Natural Diversity Inventory (PNDI);

(7) Archaeological resources;

(8) Historic resources; and,

(9) Significant stands of mature trees.

c. The Applicant may include proposed parklands within the required open space if such parkland complies with the following:

(1) The parkland shall be located and designed so that safe and convenient access shall be provided to all existing and proposed inhabitants. Additionally, each parkland site shall have at least one (1) area available for vehicular access that is no less than twenty-four feet (24) in width.

(2) The parkland shall be sized and configured to accommodate its intended uses as determined by the Board of Supervisors. Sufficient lot width/depth dimension shall be provided so as to accommodate, where practicable, ball fields, courts and other open play areas.

(3) Furthermore, should a development be proposed at a location contiguous to an existing park, parklands shall be provided, where practicable, as an expansion of the existing facility.

(4) The parkland shall have suitable topography and soil conditions for use and development as active play areas. No more than twenty-five (25) percent of the parkland site shall be comprised of storm water management facilities and/or slopes exceeding fifteen (15) percent. Any unimproved area of the site that will be used as open play area shall be provided with a healthy and vibrant grass ground cover.

(5) The parkland shall be located and designed to conveniently access needed proximate public utilities (e.g., sewer, water, power, etc.). However, no part of any overhead utility easement, nor any above ground protrusion of an under-ground utility shall be permitted in active play areas of the site.

(6) No part of the parkland shall be calculated as part of any required setback, yard and/or open space for adjoining lots or uses as regulated by this Ordinance.

6. *Ownership and Maintenance of Open Space*.

a. All or part of the open space may be dedicated to the Township for public use. The Board of Supervisors at their sole discretion shall have the right not to accept any dedication of open space.

b. When open space is not dedicated to and accepted by the Township for public use, it shall be owned, managed, controlled, and insured by the Developer, or if the Developer is not the owner of the property to be developed, then by the owner, or a Homeowner's Association (Association), for the use and/or benefit of the residents of the residential development. If the open Space is deeded to a Homeowners Association, covenants or other legal arrangements shall consist of at least the following:

(1) Each purchaser (owner) is obligated to participate in the Homeowners Association and to support maintenance of the open areas by paying to the association assessment sufficient for such maintenance and subjecting their properties to a lien for enforcement of payment of the respective assessments.

(2) The Association shall insure, regulate, maintain and replace any common facilities.

(3) Empower the Township, as well as other purchasers in the development, to enforce the covenants in the event of failure or noncompliance.

(4) Provide for agreement that if the Township is required to perform any maintenance work pursuant to the items (1) and (2) above, such purchasers would pay the cost thereof and that the same shall be a lien upon their properties until such cost has been paid.

(a) Other equivalent provisions to assure adequate perpetual maintenance may be permitted if approved by the Board of Supervisors.

(b) Assurance that such covenants or equivalent provisions shall be evidenced by the recordation in the Office of Recorder of Deeds, of a perpetual declaration regarding maintenance of facilities as prescribed hereinabove and identifying the tract and each Lot therein. Such covenants or equivalent legal arrangements shall be submitted for review with the final subdivision/land development plan and shall be reviewed and approved by the Board of Supervisors prior to the granting of final plan approval.

(c) The declaration shall be referenced in the deed or other instrument of conveyance of each Lot of record and shall be made binding on all purchasers, provided that such declaration may, as to subsequent conveyances other than the initial conveyance of each Lot of record, be incorporated by reference in the instrument of conveyance.

(5) Guarantee that any association formed to own and maintain common Open Space will not be dissolved without the consent of the Board of Supervisors

and any other specifications deemed necessary by the Board of Supervisors.

(6) The Township will require that a landscape plan/maintenance plan for Open Space be submitted along with the preliminary plan. The landscape plan/maintenance plan will be prepared and maintained by the Developer until such time as the Developer conveys common facilities to the Association at which time the Association is obligated for maintenance.

(7) The Developer or owner of the Open Space shall own and maintain the Open Space, until such time as the Open Space is conveyed to a Homeowners Association or the Township, who shall then be responsible for maintenance and replacement of the Open Space.

(8) Open space, whether owned by the Developer or a Homeowners Association shall be insured as follows with limits not less than those stated below, or as amended by the Board of Supervisors.

(a) Bodily/Personal Injury Liability. $1,000,000 each person; $5,000,000 each occurrence.

(b) Property Damage Liability. $1,000,000 each occurrence; $5,000,000 each aggregate.

7. *Future Development of Open Space*. Future development, subdivision, or sale of the required Open Space is prohibited except as provided in Subsection 8, Use of Open Space, below.

8. *Use of Open Space*.

a. Use of open space may include recreation equipment, pavilions, benches, paths and walkways, athletic fields, farming, woodlands, game preserves and similar uses for both passive and active recreation activities and, if dedicated to and accepted by the Township or Municipal Authority, for municipal or other governmental purposes.

b. Any Structure or Building accessory to recreation, conservation, or agriculture may be erected within the Open Space, subject to the approved open space plan. The accessory structures or buildings shall not exceed, in the aggregate, one (1) percent of the required open space area.

c. Residential accessory structures, such as sheds, garages, fences, etc. shall not be permitted in the open space area.

d. *Stormwater Management Facilities*. Stormwater management facilities shall be included as part of the minimum required open space. However, the Applicant must demonstrate to the satisfaction of the Board of Supervisors that such facilities are designed in accordance with the provisions of this section and the West Pennsboro Township Subdivision and Land Development Ordinance.

9. *Permitted Dwelling Units*.

a. The maximum permitted residential units after dedication for areas designated for streets, rights of ways and utility easements shall be as follows.

(1) Agricultural (A) Zone = 1 unit / 1 acre.

(2) Low Density (R1) Residential Zone = 4 units / 1 acre.

(3) Medium Density (R2) Residential Zone = 8 units / 1 acre.

b. Notwithstanding the maximums prescribed under Subsection 9.a. above, the Township Board of Supervisors may permit a density bonus of one additional dwelling unit per acre for each 2,500 lineal feet of pedestrian / bicycle trail that is designated for general public use within the proposed development. Where possible, such proposed trail shall provide connectivity with the regional trail network as stipulated in the Cumberland County Land Partnerships Plan and/or Township Comprehensive Plan or Official Map.

10. *Required Ratio Housing Types*. Table 4.03 specifies the permitted residential Structure types within cluster developments based upon the extent of proposed open space.

Table 4.03, Permitted Residential Types

Zoning District	Minimum Proposed Open Space (% of Total Site Area)	Percentage of Dwelling Units Required by Structural Type		
		Single-Family Detached	Duplex	Townhouses or Multiple-Family Dwellings
R1	30%	Not less than 60%	No restriction	Not less than 20%
R2	25%	Not less than 20%	No restriction	No restriction

11. *Required Bulk and Area Standards*. Notwithstanding the bulk and area standards specified under Article 2 of this Ordinance for the R1, and R2 zoning districts, Table 4.04 specifies the bulk and area standards that shall be applied to these zones under the Cluster Development design approach.

Table 4.04, Required Bulk and Area Standards.

Dwelling Type	Min. Lot Area	Max. Permitted Height	Min. Lot Width at Building Setback/(Lot Frontage)	Max. Lot Coverage	Minimum Required Yards			
					Front	One Side	Both Sides	Rear
Single- Family Detached Dwelling	6,000 sq. ft.	35 ft.	60 ft. / 50 ft.	50%	25 ft.	6 ft.2	12 ft.	15 ft.
Duplexes	3,500 sq. ft. per unit	35 ft.	45 ft. / 40 ft. per unit	60%	25 ft.	10 ft.	N/A	15 ft.
Townhouses	1,800 sq. ft. per unit	35 ft.	18 ft. / 18 ft. per unit	75%	25 ft.	15 ft.	(End Units)	20 ft.
Multiple- Family	43,560 sq. ft.	35 ft.	150 ft. / 200 ft.	60%	35 ft.	30 ft.	60 ft.	35 ft.

Section 4.06 Driveways

(A) No driveway shall be located nearer than five (5) feet from a parallel property line.

(B) No driveway shall provide access to a Lot located in a zoning district other than the district in which such driveway is located.

Section 4.07 Flag Lots

(A) Within the A Zone, the use of flag lots is permitted only when it will enable the preservation of some important natural or cultural feature (including productive farmland), within areas not contained upon proposed new lots which would otherwise be disturbed by conventional lot layout techniques.

(B) *Requirements for the Flag*.

1. The minimum lot area and lot width requirements of the Township Zoning Ordinance shall be measured exclusively upon the flag.

2. For purposes of determining required yards and setbacks, the followingshall apply:

   a. *Front Yard*. The area between the principal Structure and that lot line of the flag which is most parallel to the street providing vehicular access to the site. Additionally, all areas of the pole shall be considered to be within the front yard;

   b. *Rear Yard*. The area between the principal Structure and that lot line of the flag that is directly opposite the front yard, as described above; and,

   c. *Side Yards*. The area between the principal Structure and that one (1) outermost lot line which forms the flag and pole, plus the area on the opposite side of the principal Structure.

(C) The flag-lot shall contain adequate driveway dimension for vehicular backup so that ingress to, and egress from the lot is in the forward direction;

(D) *Requirements for the Pole*.

1. The pole shall maintain a minimum width of twenty-five (25) feet.

2. The pole shall not exceed six hundred (600) feet in length, unless additional length is needed to avoid the disturbance of productive farmlands or some other significant natural or cultural feature.

3. No part of the pole shall be used for any portion of an on-lot sewage disposal system, nor any other improvement except a driveway and other permitted improvements, such as landscaping, fencing, utility connections to off-site facilities, mailboxes, and signs.

4. The Cartway contained on the pole shall be located at least six (6) feet from any adjoining property line, and twenty (20) feet from any existing structures on the site or any adjoining property.

5. No pole shall be located within two hundred (200) feet of another on the same side of the street, unless an adjoining pole utilizes a joint-use driveway, regulated as follows:

(a) When one or more flag lots are proposed, such lots may rely upon a joint-use driveway for vehicular access;

(b) A joint-use driveway must serve at least one flag-lot, but may also serve conventional lots, up to a maximum of four (4) total lots;

(c) All joint-use driveways shall have a minimum easement width of fifty (50) feet and a minimum Cartway width of sixteen (16) feet;

(d) Cross access easements shall be required to ensure common use of, access to, and maintenance of, joint-use driveways; such easements shall be recorded in language acceptable to the Township Solicitor, and depicted on the subdivision plan; and

(e) Joint use driveways that exceed three hundred (300) feet in length are required to provide for a cul-de-sac turnaround with a dust free surface that has a minimum radius of fifty (50) feet.

Section 4.08 Lighting

(A) The Outdoor Lighting and Design Standards of the West Pennsboro Township Subdivision and Land Development Ordinance are incorporated by reference in their entirety and made a part of this Ordinance and shall be applicable to all outdoor lighting installed and/or replaced in the Township after the effective date of this Ordinance, which lighting is not associated with any activity for which subdivision and/or land development plan approval would be required. Accordingly, any relief from the provisions of this Ordinance and the provisions of the West Pennsboro Township Subdivision and Land Development Ordinance incorporated herein, may only be granted by a variance approved by the West Pennsboro Township Zoning Hearing Board in accordance with the procedures and standards set forth in Section 1.15 of this Ordinance.

(B) Any lighting fixture or lighting installation existing on the effective date of this Ordinance that does not conform with the requirements of the West Pennsboro Township Subdivision and Land Development Ordinance shall be considered nonconforming. A nonconforming lighting fixture or lighting application shall be made to conform with the requirements of the West Pennsboro Township Subdivision and Land Development Ordinance when any one of the following conditions apply:

1. It is deemed by the Board of Supervisors to create a safety hazard;

2. It is replaced by another fixture or fixtures or is abandoned or relocated;

3. The number of fixtures is increased by fifty (50) percent or more with conforming lighting fixtures; or

4. There is a change in use on the property where the nonconforming lighting fixture or lighting installation exists.

Section 4.09 Nonconformities

(A) *General Regulations*. All lawful uses of land or of a Building, Sign or other Structure existing on the effective date of this Ordinance may be continued, altered, restored, reconstructed, changed, sold, or maintained even though such Use may not conform to the Use, Height, area, Yard and other regulations of the zoning district in which it is located, provided such nonconforming conditions shall comply with the following requirements.

(B) *Continuation*. Except as otherwise provided in this Ordinance, any use, Building, or Structure lawfully existing at the time of enactment of this Ordinance may be continued, although it is not in conformity with the regulations specified by this Ordinance.

(C) *Abandonment*. If a nonconforming use of land or of a Building or Structure ceases or is discontinued for a continuous period of one (1) year, or more, subsequent use of such Building, Structure, or land shall be in conformity with the provisions of this Ordinance.

(D) *Extension of a Nonconforming Use of Land*. Any lawful nonconforming use of land exclusive of buildings and structures and the use contained therein, may be extended upon the lot upon which it exists at the time of the effective date of this Ordinance, but such extension shall conform to area and lot regulations and the design standards of this Ordinance and to the percentage limitation as set forth in Subsection (E) of this Section. The extension of a nonconforming use on a lot shall be limited to the lot which was in existence on the effective date of this Ordinance.

(E) *Expansion or Alteration*.

1. Any nonconforming use may be expanded or altered through the obtainment of a Conditional Use and subject to the following criteria:

   a. Expansion of the nonconformity shall be confined to the lot on which it was located on the effective date of this Ordinance, or any amendment thereto creating the nonconformity;

   b. The total of all such expansions or alterations of use shall not exceed an additional fifty (50) percent of the area of those buildings or structures or land devoted to the nonconforming use as they existed on the date on which the use of such buildings, structures or land first became nonconformities. The Applicant shall furnish conclusive evidence as to the extent of the nonconformity when it was created;

   c. Provision for vehicular access, off-street parking and off-street loading shall be consistent with standards required by this Ordinance;

   d. Provision for yards, Building height and Building area shall be consistent with the standards required for permitted uses in the zone in which the nonconformity in question is located;

   e. Appearance shall be harmonious with surrounding properties; this feature includes butis not limited to landscaping, enclosure of principal and accessory uses, height control, sign control, architectural control and maintenance of all improvements and open spaces;

   f. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes but is not limited to fences, walls, plantings and open spaces;

   g. The expansion shall not create new dimensional nonconformities or further increase existing dimensional nonconformities;

   h. No expansion of a nonconforming Structure or a nonconforming use located outside of a Structure existing on the effective date of this Ordinance shall be permitted in the Floodplain Overlay Zone;

i. Excluding expansion, any modification, alteration, repair, reconstruction or improvement of any kind to a nonconforming use or Structure located in the Floodplain Overlay Zone shall be permitted when either elevated above the base flood elevation or floodproofed. In no case, shall any modification, alteration, repair, reconstruction or improvement cause unacceptable increases in flood height, velocities or frequencies.

2. Any dimensional nonconformity may be reduced as a permitted use, even if the re- duction does not entirely eliminate the dimensional nonconformity. Furthermore, any Structure that has one or more nonconforming setbacks may be extended along the same nonconforming setback(s) line, up to a maximum of fifty (50) percent, or one hundred (100) feet, whichever is less, of the area of the Building that follows the setback when it was originally made nonconforming; the diagram above illustrates this regulation. Nothing within this section shall be interpreted to allow an increase in any dimensional nonconformity.

(F) *Substitution or Replacement*.

1. A nonconforming use may be replaced or substituted by another nonconforming use by Conditional Use, if the Board of Supervisors determines that the proposed use is at least equally compatible with the surrounding area, than the original nonconforming use. In addition, the proposed nonconforming use shall not increase any dimensional nonconformities. The Board of Supervisors may attach reasonable conditions to the Conditional Use to maintain or improve compatibility within its surroundings.

2. If a non-conforming use is proposed to be replaced with a conforming use that cannot meet certain design standards (such as area, coverage, setbacks, etc.), the Board of Supervisors may grant a Conditional Use to permit such non-conforming aspects of the conforming use, if the Board determines that the proposed use is at least equally compatible with the surrounding area, than the original nonconforming use. The Board of Supervisors may attach reasonable conditions to the Conditional Use to maintain or improve compatibility within its surroundings.

(G) *Restoration*. Any lawful nonconforming Building or other Structure which has been involuntarily damaged or destroyed by fire, explosion, windstorm, or other similar active cause may be reconstructed in the same location, provided that:

1. The reconstructed Building or Structure shall not exceed the height, area, or volume of the damaged or destroyed Building or Structure and such reconstructed Building or Structure shall not increase any dimensional nonconformities; and,

2. Reconstruction shall begin within one (1) year from the date of damage or destruction and shall be carried on without interruption. With regard to existing manufactured homes, a reconstruction or replacement must be no larger than the current minimum commercial size available.

(H) *Previously Expanded Nonconforming Uses and Structures*. It is the express intent and purpose of this Ordinance that if a Building, Structure, sign or land was expanded or extended to the limits of expansion for a nonconforming Building, Structure, sign, or use of land as authorized by a prior zoning regulation or ordinance, no further expansion of said Building, Structure, sign, or land shall be authorized. In the event a nonconforming Building, Structure, sign, or use of land was expanded to a portion of the limits of expansion authorized by a prior zoning regulation or ordinance, additional expansion if permitted by this Ordinance, shall only be authorized to the amount of expansion not previously utilized pursuant to said prior zoning regulation or ordinance.

(I) *Nonconforming Lots*.

1. In any zone in which single-family detached dwellings are permitted, a single-family detached dwelling may be erected on any single lot, as defined in this Ordinance, existing in single and separate ownership on the effective date of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. This provision shall apply even though such lot fails to meet all of the lot area and lot width requirements of the zone in which the lot is located. All setback and lot coverage requirements shall be met; and,

2. If a lot consists of two (2) or more lots of record or combinations of lots or portions of lots of record held in single and separate ownership on the effective date of this Ordinance, such lots of record shall not be separately transferred or developed, unless the lot so transferred or developed (whether consisting of one or more lots of record) and the lot retained by the transferor (whether consisting of one or more lots of record) shall meet all requirements of the zone in which the lot or lots are located. It is the intention of this provision that no portion of any lot consisting of two (2) or more lots of record shall be used or sold in a manner which does not comply with all requirements established by this Ordinance or which shall result in the creation of a lot with a lot width, lot area or yard setback below the minimum requirements or with lot coverage in excess of the maximum requirements stated in this Ordinance.

(J) *Amortization of Nonconforming Signs*. Any sign that was legally existing as of the effective date of this Ordinance that does not comply with the provisions listed in Article 5 of this Ordinance, shall be considered a nonconforming sign. All nonconforming signs may continue for a period up to five (5) years from the effective date of this Ordinance. After the five (5) year continuance period, all nonconforming signs shall be removed, reconstructed and/or altered so that they comply with all of the provisions contained within Article 5 of this Ordinance. Any improvements, repairs, reconstructions, or any other alterations made to the nonconforming sign during the five (5) year continuance period shall not waive the requirements for elimination of the nonconforming signs at the end of the continuance period. This section shall not apply to any legally existing nonconforming billboards.

(K) *Amortization of the Nonconforming Storage of Junk on Residential Properties*. Any external storage of junk (as defined herein) upon a property used as a principal residence that was legally existing as of the effective date of this Ordinance, shall be considered nonconforming. All such storage may continue for a period of up to twelve (12) months from the effective date of this Ordinance. After the twelve (12) month period, all such storage shall be removed. Failure to remove such junk shall constitute a zoning violation. Any improvement, repair, reconstruction, or any other alteration made to the area used to store junk during the twelve (12) month period shall not waive the requirements for elimination of the use.

(L) *Documentation of the Nonconformance*.

1. It shall be the right of the Landowner to provide evidence of the nonconformance. At the request of the Landowner and based on evidence provided to the Zoning Officer, the Zoning Officer shall issue a Certificate of Nonconformance, which shall be for the purpose of insuring to the Owner the right to continue a nonconforming Building or Use. If no documented evidence is produced, it shall be assumed that the nonconformance is not a preexisting condition.

2. The Certificate of Nonconformance shall set forth in detail all the nonconforming conditions of said property.

3. The Township shall retain a copy of the Certificate of Nonconformance.

Section 4.10 Obstruction to Vision

Walls, fences, signs, other structures, or obstructions shall not be erected or altered, and hedges, trees or other plant material shall not be planted or maintained, which may cause danger to traffic on a Street, road, or driveway by obstructing the available sight distance. The required sight distance is the minimum safe stopping sight distance in accordance with the Street and Intersection Design requirements of the West Pennsboro Township Subdivision and Land Development Ordinance.

Section 4.11 Off-Street Parking and Loading

(A) *Purpose*.

The Township recognizes that off-street areas are necessary to accommodate the needs of commercial businesses, residential uses, and the general public. It is the intent of this article to promote public health, safety, and welfare by providing reasonable standards for off-street parking areas that:

1. Minimize conflicts between pedestrians and motor vehicles.
2. Create visually attractive parking areas.
3. Ensure a sufficient number of spaces for the intended use of the property.
4. Ensure adequate lighting.
5. Ensure adequate drainage.
6. Provide for efficient maneuverability and safe vehicle and pedestrian circulation.
7. Protect the character and stability of residential, business, institutional and industrial areas.
8. Preserve the value of land and Buildings on surrounding properties.

(B) *General Parking Regulations*.

1. Off-Street parking facilities shall be provided to lessen congestion in the Streets. The facilities required herein shall be available to patrons throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term "parking space" includes either covered garage space or uncovered parking space located off the public Right-of-Way.
2. Unless determined unnecessary by the Township Engineer, parking spaces and approaches thereto shall be paved in accordance with West Pennsboro Township Subdivision and Land Development Ordinance.
3. All commercial, public, institutional, and industrial uses shall provide ADA-accessible parking spaces according to the 2010 ADA Standards for Accessible Design, or as may be amended from time to time.
4. In residential districts, no part of any minimum front Yard Setback shall be used for parking purposes, except that the driveway area located within the front Yard Setback may be used for off-street parking. For nonresidential uses, parking may be permitted no closer than fifteen (15) feet from the Street Right-of-Way line.

(C) *Off-Street Parking Requirements*.

1. To ensure that certain developments provide adequate, but not excessive, vehicle parking, the Township requires Applicants thereof to submit a written computation of their required off-street parking spaces based on the estimated parking demand of the proposed Use(s).

2. The Applicant shall prepare a Parking Analysis Report to propose the number of required off Street parking spaces. The Report shall be prepared by a Registered Design Professional and/or a Certified Planner. The Parking Analysis Report shall contain the following:

   a. *Site Plan*. A Site Plan containing the following:

      (1) Legal property boundary.

      (2) Existing and proposed project layout.

      (3) All existing and proposed uses and tenant spaces.

      (4) All existing and proposed parking spaces.

   b. Analysis of parking demand information from professional literature that is pertinent to the proposed development. Such information may include data or literature from the Urban Land Institute's (ULI) Shared Parking, Third Edition publication and/or the Institute of Transportation Engineers' (ITE) Parking Generation Manual, 5th Edition.

   c. The actual number of parking spaces required shall be based on well-recognized sources of parking data such as the above cited ULI or ITE reports. If standard rates are not available or limited, the Applicant may collect data at similar sites to establish local parking demand rates. The information about the existing development and its parking demand shall include enough detail to evaluate similarities and differences between the existing development and the proposed development. Field surveys shall consider the seasonal peak period for the proposed land uses involved.

   d. Propose a minimum and maximum parking ratio. For phased projects, and for projects where the tenant mix is unknown or subject to change, the Applicant may propose a range (low and high number of parking spaces) for each development phase and both a minimum and maximum number of parking spaces to be provided at buildout of the project.

   e. Peak hours of operation and parking occupancy.

   f. Final number of proposed required parking spaces with justification and summary of findings (Note: Where the calculation of minimum parking spaces does not result in a whole number, the result shall be rounded up to the next whole number).

3. *Township Approval*.

   a. As part of the Township's required subdivision or land development application approval process, the Township Board of Supervisors, upon recommendation by the Planning Commission and in consultation with the Township Zoning Officer and Township Engineer shall consider the final parking requirements determination made in the Applicant's Parking Analysis Report. Based on the Applicant's materials

and other data the Township Engineer deems relevant, the Board of Supervisors shall set the requirements for minimum and maximum parking allowed. Conditions of approval may be placed on the Decision to ensure compliance with the parking determination.

b. The Applicant may appeal the Township's Decision to the Zoning Hearing Board pursuant to Section 1.15 of this Ordinance.

(D) *Location and Management Requirements*.

1. *Existing Parking*. Buildings and uses existing on the effective date of this Ordinance shall not be subject to the requirements of this article in accordance with the following:

   a. The type or extent of use is not changed; and

   b. Provided that any parking facility now serving such structures or uses shall not in the future be reduced.

2. *Changes in Requirements*. Whenever there is an alteration of a Building or a change or extension of a use which increases the parking requirements, the total additional parking required for the alteration, change or extension shall be provided in accordance with the requirements of this article.

3. *Conflict with Other Uses*. No parking area shall be used for any use that interferes with its availability for the parking need it is required to serve.

4. *Continuing Obligation*. All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Reasonable precautions are to be taken by the property Owner or business Owner to assure the availability of required facilities for the employees or other persons for whom the parking areas are designed to serve. The property Owner or business Owner shall ensure that the parking area at no time constitutes a nuisance, hazard or unreasonable impediment to traffic.

5. *Shared Parking*.

   a. Shared parking may be applied when land uses have different parking demand patterns and are able to use the same parking spaces/areas throughout the day, especially for multi-story, vertically mixed-use buildings.

   b. The minimum number of parking spaces for a development or where shared parking strategies are proposed shall be determined by a study prepared by the Applicant following the procedures specified under Subparagraph (D) above.

   c. *Shared Parking Agreement*. If a privately-owned parking facility is to serve two (2) or more separate properties, a legal agreement between property owners guaranteeing access to, use of, and management of designated spaces is required.

   d. *Shared Parking Plan*. The following are required submissions for a shared parking proposal:

      (1) Site plan of parking spaces intended for shared parking and their proximity to land uses that they will serve.

(2) A signage plan that directs drivers to the most convenient parking areas for each particular use or group of uses (if such distinctions can be made).

(3) A pedestrian circulation plan that shows connections and walkways between parking areas and land uses.

(4) These paths shall be as direct and short as possible.

(5) A safety and security plan that addresses lighting and maintenance of the parking areas.

6. *Location of Spaces*.

a. Off-Street parking spaces for single- and two-family residential uses shall be provided on the same Lot.

b. Parking spaces for multifamily dwelling Building(s), commercial, industrial and other nonresidential uses shall be readily accessible to the Building(s) served. Such space shall be in the same zoning district as the principal Building or use, and conform to the following requirements:

(1) Required parking spaces shall be located within two hundred (200) feet of the principal Building or use when located on the same side of the Street.

(2) Required parking spaces shall be located within four hundred (400) feet of the principal Building or use when linked to a pedestrian trail or sidewalk when located on the same side of the Street.

(3) Fifty (50) percent of the required parking spaces may be located across a Minor or Local collector Street with the following conditions:

(a) Crosswalks shall be provided in order to ensure safe pedestrian access to and from the parking area.

(b) Safety lighting shall be provided at the crosswalk to illuminate the cross area when the parking area is used in early morning or at night.

(c) A pedestrian crossing Sign in accordance with PennDOT Publications 68 and 236 shall be provided on each side of the road.

(d) Parking Lots located across a Street shall be safe for pedestrian use. To ensure safety, the design of the crosswalk shall consider the speed limit, sight distance, visibility, road conditions and other safety factors. In the event that the crosswalk is deemed to be unsafe by the Township Engineer, the Zoning Officer shall not permit parking areas across a Street.

(e) In the event that the crosswalk is deemed to be unsafe by the Township Engineer, adjacent development, the change of Street classification or other circumstances that shall affect pedestrian safety, the parking Lot shall be abandoned.

(f) The distances specified herein shall be measured from the nearest point of the parking Lot to the nearest point of the principal Building or use that the parking Lot is required to serve.

(g) The Applicant zoning permit application shall include a legal document approved by the Township Solicitor that subjects such parcels of land to parking uses in connection with the principal use to which it is accessory. The legal document must indicate the parking spaces will be provided perpetually. Prior to the issuance of a zoning permit, the Applicant must record such legal documents with the Cumberland County Recorder of Deeds and provide a copy of the recorded documents to the Zoning Officer.

8. *Lighting*. Any lighting used to illuminate off-street parking or loading areas shall be in accordance with Section 4.08, Lighting, of this Ordinance.

9. *Landscaping*.

a. *Interior of Parking Lot*. A minimum of five (5) percent of the interior parking Lot area shall be landscaped when:

(1) There is a total of forty (40) or more parking spaces in the parking Lot, or

(2) There are one or more interior space aisle(s) provided in the parking Lot with ten (10) or more parking spaces.

(3) The required five (5) percent interior parking Lot landscaped area shall be landscaped with shade trees and ground cover. The following alternatives are permitted separately or in combination:

i. Provide a continuous landscape strip between every four rows of parking. The landscape strip shall be a minimum of eight feet in width to accommodate shade trees and other landscaping.

ii. Provide large planting islands (over 600 square feet) to be located throughout the Lot and planted with shade trees and ground cover located at the ends of parking rows.

iii. Provide planting islands at a minimum of nine feet wide between every ten (10) to fifteen (15) spaces to avoid long rows of parked cars.

b. A minimum of one (1) shade tree shall be required for each eight (8) spaces.

c. *Perimeter of Parking Lot*. Perimeter landscaping located within the ten (10) foot required parking setback from a Building shall be ground cover and shrubs or hedges. Shade trees are not required in the ten (10) foot setback area.

10. *Landscaping and Screening*.

a. *Trees*. Table 4.06 specifies the tree planting requirements for parking Lots.

Table 4.06 Tree Planting Requirements for Parking Lots.

	Small[1]	Medium[2]	Large[2]
Interior Dimension	5 ft.	N/A	N/A
Setback (from trunk perimeter)	N/A	6 ft.[3]	10 ft.[3]
Area, Single Tree	90 sq. ft.	250 sq. ft.	800 sq. ft.
Area, Each Additional Tree in a Group	25 sq. ft.	90 sq. ft.	200 sq. ft.

Notes:

[1] Each small tree shall be located in a planting area of at least ninety (90) square feet (plus 25 square feet for each additional tree in a group) with a minimum interior dimension of five (5) feet.

[2] Each medium and large tree shall be located in a planting area or undisturbed area that conforms to the minimum as specified in the chart above.

[3] The largest tree in any group shall be considered as the first tree for counting purposes.

b *Perimeter of Parking Lot*. Perimeter shade trees and ground cover shall be planted within an eight (8) foot wide landscape strip around the entire perimeter of the Lot, except along the Street, to be planted in accordance with Section 4.02 of this Ordinance. Existing shade trees may be used to meet the perimeter requirement of this section. The eight (8) foot wide landscape strip may include a sidewalk or walkway. Perimeter landscaping may be in any required buffer yard. Perimeter landscaping does not constitute screening.

c. *Contiguous Properties*. When a parking Lot abuts a residential use or residential district, screening in accordance with Section 4.02 of this Ordinance shall be provided along the entire property line, except along the Street, to be planted in accordance with Section 4.02 of this Ordinance.

d. *Maintenance*. Maintenance of parking Lot landscaping shall be in accordance with Section 4.02 of this Ordinance.

(E) *Design Standards*.

1. The minimum dimensions of parking facilities to be provided shall be as follows:

a. In all districts, noncompact parking spaces per vehicle shall be not less than nine (9) feet wide and nineteen (19) feet long. Accessible parking shall meet the standards specified under the Township Building Code.

b. Parking space and aisle dimensions shall be not less than those listed in Table 4.07.

c. Each parking space must have a minimum vertical clearance of seven (7) feet.

Table 4.07, Vehicle Parking Space and Aisle Dimensions.

Angle of Parking	Min. Stall Width	Min. Stall Depth[1]	Min. Aisleway Width, One-Way	Min. Aisleway Width, Two-way
90°	9 ft.	19 ft.	25 ft.	25 ft.
60°	9 ft.	19 ft.	18.5 ft.	20 ft.
45°	9 ft.	19 ft.	13.5 ft.	20 ft.
30°	9 ft	19 ft	12 ft	20 ft
Parallel	8 ft	22 ft	12 ft	20 ft

[1] Depth of parking space is the measurement from the curb or edge of the parking space toward the interior portion of the space to be occupied by a parked vehicle and not including any part of the aisle or driveway.

c. All dead-end parking Lots shall be designed to provide sufficient backup area for the end parking spaces of the parking area.

d. Parking areas shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle.

e. Where more than ten (10) parking spaces are required, a maximum of forty (40) percent of the parking spaces may be provided for compact vehicles. Each compact parking space shall be not less than eight (8) feet wide by seventeen (17) feet long. All compact parking spaces shall be located in the same area and be marked to indicate spaces designated for compact parking.

f. *Trucks and Trailers*.

(1) Where Truck parking spaces or trailer parking spaces are provided and/or required, parking space and aisle dimensions shall not be less than the dimensions listed in the Table 4.08.

(2) Each parking space must have a minimum vertical clearance of sixteen (16) feet.

Table 4.08, Truck and Trailer Parking Space and Aisleway Dimensions.

Angle of Parking	Min. Stall Width	Min. Stall Depth[1]	Min. Aisleway Width One-Way	Min. Aisleway Width Two-way
90°	15 ft.	60 ft.	75 ft.	75 ft.
60°	15 ft.	60 ft.	56 ft.	60 ft.
45°	15 ft.	60 ft.	41 ft.	60 ft.
30°	15 ft.	60 ft.	36 ft.	60 ft.

[1] Depth of parking space is the measurement from the curb or edge of the parking space toward the interior portion of the space to be occupied by a parked vehicle and not including any part of the aisle or driveway.

(2) Where Truck parking spaces or trailer parking spaces are provided and/or required, the minimum width shall be fifteen (15) feet and the

minimum depth shall be sixty (60) feet. Aisle widths in Truck parking areas shall be seventy-five (75) feet for one-way or two-way.

2. Setbacks for parking areas shall be provided as follows:

   a. All parking spaces and access drives shall be located at least ten (10) feet from any multiple dwelling Building, office, commercial, institutional, industrial, and other similar nonresidential Buildings located on the Lot. The ten-foot setback between the parking area and Building shall be for the purpose of providing a pedestrian access walkway and perimeter landscaping.

   b. All parking spaces and access drives shall be at least eight (8) feet from any side or rear Lot line, except where buffer yards are required, in which case the standards set forth in Section 4.02 shall apply. The required setback shall not include screening.

   c. No off-street parking area shall be located within a public Right-of-Way.

3. *Separation*.

   a. In no case shall parking Lots be designed to require or encourage vehicles to back into a public or private Street in order to leave the parking areas.

   b. All paved off-street parking spaces shall be marked with paint or other methods so as to indicate their location.

4. *Curbing*.

   a. Curbing within a parking Lot shall be required in a land development if determined necessary by the Township Engineer to:

      (1) Channelize and control vehicular movement in a safe manner through the parking area.

      (2) Direct stormwater and drainage within the parking Lot and to landscaped infiltration areas.

      (3) Define parking areas.

      (4) Delineate and/or protect perimeter and interior landscaped areas from vehicles.

      (5) Separate vehicle movement from pedestrian movement as necessary for safety.

   b. When required, curbing shall be constructed in accordance with the West Pennsboro Township Subdivision and Land Development Ordinance.

   c. Construction specifications for curbing to be installed in parking areas shall be submitted with the land development application.

   d. Where curbs are provided in a parking Lot, the minimum curb radii shall be designed as approved by the Township Engineer.

(F) *Off-Street Loading and Unloading*.

1. *Required Spaces or Berths*.

   a. Off-Street loading shall be required in accordance with this section prior to the occupancy of any Building or use, to alleviate traffic congestion on Streets. These facilities shall be provided whenever:

      (1) A new use is established.

      (2) The use of a property or Building is changed and thereby requiring more loading space.

      (3) An existing use is enlarged, thereby requiring an increase in loading space.

   b. Where off-street loading spaces are required, loading spaces or berths shall be provided for standing, loading and unloading operations, either inside or outside a Building and on the same or adjoining premises.

2. *Site Plan*. Each application for a Zoning Permit (or use for which off-street loading spaces are required) shall illustrate the proposed layout of the loading area. No Zoning Permit shall be issued for any use for which a loading area is required unless such illustration has been provided and approved or necessary variances have been approved.

3. *Design Requirements*. All off-street loading shall be designed and constructed in compliance with West Pennsboro Township Subdivision and Land Development Ordinance.

4. *Location*.

   a. Loading facilities shall not be located on the front of a Building in Mixed-Use zoning districts and shall be hidden from pedestrian and vehicular activity.

   b. In no case shall the use of a loading space or berth hinder the movement of vehicles and pedestrians over a Street, Alley or sidewalk.

   c. Maneuvering areas shall not be located to require vehicles to back into an Alley or Street when unloading materials.

   d. Loading spaces shall be located in the rear of the property of the business to be served.

   e. Loading spaces shall not be placed in the front, rear, or side yard minimum Setbacks, as defined in this Ordinance.

5. *Dimensions*. Loading spaces shall provide ample maneuvering space for vehicles as follows:

   a. *Loading Space*. Shall be the width and length of a standard parking space as prescribed in Subsection E.1.a above.

   b. *Loading Berths for Local Delivery Trucks*. Shall have a minimum width of ten (10) feet, minimum length of twenty-five (25) feet and a minimum vertical clearance of sixteen (16) feet above finished grade.

6. *Loading Berth for Semi-Trailers*. Shall have a minimum width of ten (10) feet, minimum length of sixty (60) feet and a minimum vertical clearance of sixteen (16) feet above finished grade.

7. *Screening*. A solid masonry wall or solid decorative wood or vinyl fence with slats shall be erected where a loading berth or space is located directly across a Street from a dwelling with one or two units. Where a loading space or berth is located directly across from a dwelling with one or two units, mitigation of the vehicular impacts may be required including, but not limited to, restricted loading and unloading times and landscape enhancements.

8. *Off-Street Parking Prohibited*. A loading space shall not be considered an off-street parking space, and therefore shall not be considered a credit to the number of required parking spaces as required under Subparagraph (A) above.

Section 4.12 On-Lot Sewage Disposal Systems

(A) Refer to the On-Lot Sewage Maintenance Ordinance #2007-02.

(B) Regardless of any maximum lot area requirements listed elsewhere in this Ordinance, the minimum required lot size may be increased to insure an acceptable level of nitrate- nitrogen in the adjoining groundwaters. Such determinations will be made by the PA DEP, through its sewer module review process. In those cases where applicable maximum lot area requirements are exceeded to protect groundwater quality, the Applicant shall furnish evidence that the amount of land needed to protect local groundwater is the minimum necessary for such protection. As an alternative to increasing required lot size, an Applicant can record a sewage plume easement on adjoining property in language acceptable to the Township Solicitor.

(C) Every use relying upon on-lot sewage disposal systems shall be required to properly maintain and repair such systems, in accordance with the West Pennsboro Township On- Lot Disposal System Management Program.

(D) Every use relying upon an on-lot sewage disposal system shall be required to comply with the Pennsylvania Sewage Facilities Act 537, as may be amended.

Section 4.13 Outdoor Storage and Stockpiling

(G) *Outdoor Stockpiling*. In all R1, R2, R3, and MU Zones, no outdoor stockpiling of any material is permitted in the front yard or side yard except firewood in the side yard.

(H) *Trash, Garbage, Refuse, or Junk*. Except as permitted under Article 3 of this Ordinance, the outdoor accumulation of trash, garbage, refuse, or junk for a period exceeding ten (10) days is prohibited.

(I) *Dumpsters*. All trash dumpsters shall be located within a side or rear yard, screened from adjoining roads and properties, and completely enclosed within a masonry or fenced enclosure equipped with a self-latching door or gate. Any temporary use trash dumpsters shall not be permitted for a period exceeding thirty (30) contiguous calendar days.

(J) *Domestic Composts*. The placement of framed enclosure composts as an accessory residential use is permitted, subject to all accessory use setbacks. Only waste materials from the residential site shall be deposited within the compost, and in no case shall meat, or meat by-products, be composted. All composts shall be properly maintained so as not to become a nuisance to nearby properties.

(K) *Exterior Parking and Storage of Unlicensed or Uninspected Motor Vehicles*. No more than two (2) motor vehicles without current, valid license plates or current, valid inspection stickers may be parked

or stored in any zone for more than forty-five (45) days. The two (2) permitted unlicensed or uninspected motor vehicles shall be placed within the rear yard area not less than ten (10) feet from any property line. The requirements of this Section shall not be applicable to farm implements and other farm vehicles not normally used as a means of conveyance on public highways. Nothing contained herein shall be deemed to authorize the parking or storage of any motor vehicle in any zone, unless such motor vehicle is an accessory use to the present use of the lot. Notwithstanding the foregoing, this section, in and of itself, shall not be interpreted to prevent the unenclosed storage of motor vehicles without current, valid license plates and current, valid inspection stickers if such storage is performed in conjunction with the legal operation of a motor vehicle sales establishment, a motor vehicle service or repair establishment, or a Junkyard.

(L) *Use of Cargo Containers*. The use of cargo containers, including box / van trailers, container express (CONEX), or similar transport or shipping containers may be used for storage subject to the following conditions:

1. Cargo containers may not contain axels or wheels. Cargo containers that retain axels and wheels and are used for storage are considered temporary and may be kept onsite for a ninety (90) day time period. The Township may extend this period by an additional ninety (90) day time period. After this time period, the shipping container must be removed from the property and may not be replaced for one (1) year. Other containers that are considered temporary and are rented (such as containers used for moving personal belongings) may be kept onsite for a ninety (90) day time period. The Township may extend this period by an additional ninety (90) day time period. Such containers shall follow the accessory Structure setbacks.

2. Cargo containers must comply with applicable principal Building setbacks.

3. Cargo containers shall be placed on a graded stone or paved base.

4. Cargo containers must be well maintained, both structurally and aesthetically. No advertising, business name, or graffiti shall be located on the container.

5. Except within the Agriculture (A) District, all storage containers shall be screened from neighboring property lot lines with a minimum six (6) foot high evergreen screen having a minimum opacity of seventy-five (75) percent.

(M) *Outdoor Storage of Tires*. The outdoor storage of tires shall be permitted in the C, I, and Q Zones only and shall be subject to the following regulations:

1. Outdoor storage of tires or tire-derived materials shall be within a six (6) foot solid screened fence with screening in accordance with Section 4.02 of this Ordinance.

2. *Storage Restrictions*.

   a. When waste tires or tire-derived materials are stored outdoors, each stockpile:

      (1) Shall have a horizontal area not greater than 10,000 square feet.

      (2) Shall have a vertical Height not greater than eight (8) feet.

      (3) Shall be separated from any other waste tire stockpile by at least fifty (50) feet measured from the base of the stockpile. This area shall be maintained free of waste, equipment, and structures.

b. No Person shall store waste tires or tire-derived materials:

(1) In the one hundred (100) year floodplain.

(2) Within three hundred (300) feet of a wetland.

(3) Within three hundred (300) feet measured horizontally from an occupied dwelling unit.

(4) Within three hundred (300) feet of a watercourse.

(5) Within fifty (50) feet of any property line or fence.

3. Open burning of waste tires or tire-derived materials shall be prohibited.

4. Outdoor storage of tires or tire-derived materials shall meet all PA DEP regulations for the storage of tires or tire-derived materials.

5. Outdoor storage of tires or tire-derived materials shall meet the requirements of the Township Building Code.

6. Conditions conducive to the harboring of vectors (i.e., mosquitoes, etc.) shall be eliminated.

7. Upon cessation of waste tires or tire-derived materials storage activities, the property Owner or occupant shall immediately remove all waste tires, tire-derived materials and residuals from the site, and shall provide for the processing or disposal of such materials or wastes in accordance with the PA DEP regulations.

Section 4.16 Performance Standards

(A) *Air Pollution*. To protect and enhance the air quality in the Township, all sources of air pollution shall comply with any and all regulations set forth by the Federal Environmental Protection Agency and PADEP. In addition, the following shall apply:

1. *Odor*. In the C, I, and Q Zones, no odor shall be permitted at any Lot line exceeding the lowest amount set forth for the compounds described in Table III, Odor Thresholds, of Ordinance 5, Physiological Effects, of the Air Pollution Abatement Manual, copyright 1951 by Manufacturing Chemists' Association, Inc. For compounds not described in Table III, odor thresholds may be established by methods indicated in Ordinance 5 of the manual, and no odor shall be permitted at any Lot line exceeding the amount determined by the application of such methods.

2. *Smoke*. In the C, I, and Q Districts, smoke from any chimney, stack, vent, opening or combustion process is prohibited to exceed the U.S. Dept. of the Interior, Bureau of Mines Ringlemann Smoke Chart (May 1967) No. 1 density. However, smoke density exceeding Ringlemann Smoke Chart No. 3 is permitted for up to three (3) minutes total in any one eight (8) hour period.

3. *Particulate Matter*.

a. The rate of particulate matter emission from all sources within the boundaries of any Lot within the C, I, and Q Districts shall not exceed a net figure of one (1) pound per acre of Lot area during any one (1) hour period, after deducting from the gross hourly emission per acre the correction factors set forth in Table 4.10.

Table 4.10, Allowance for Height Emission

Height of Emission Above Grade (Feet)	Correction (Pounds per Acre)
50	0.01
100	0.06
150	0.10
200	0.16
300	0.30
400	0.50

b. Determination of the total net rate of emission of particulate matter within the boundaries of any Lot shall be made as follows:

(1) Determine the maximum emission in pounds per hour from each source of emission and divide this figure by the number of acres of Lot area, thereby obtaining the gross hourly rate of emission in pounds per acre.

(2) From each gross hourly rate of emission derived in Subsection 3.a above, deduct the correction factor (interpolating as required) for Height of emission set forth in the table, thereby obtaining the net rate of emission in pounds per acre per hour from each source of emission.

(3) Add together the individual net rates of emission derived in Subsection 3.b above to obtain the total net rate of emission from all sources of emission within the boundaries of the Lot; such total shall not exceed one pound per acre of Lot area during any one (1) hour period.

(B) *Electromagnetic Interference*.

1. It shall be unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, for any other use directly or indirectly associated with these purposes which does not comply with the then current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation, except that for all governmental communications facilities, governmental agencies and government owned plants, the regulations of the Interdepartment Radio Advisory Committee shall take precedence over the regulations of the Federal Communications Commission, regarding such sources of electromagnetic radiation.

2. Further, said operation in compliance with the Federal Communications Commission or the Interdepartment Radio Advisory Committee (IRAC) regulations shall be unlawful if such radiation causes an "abnormal degradation" in performance of other electromagnetic radiators or electromagnetic receptors of quality and proper design because of proximity,

primary field, blanketing, spurious re-radiation, harmonic content, modulation or energy conducted by power or telephone lines. The determination of "abnormal degradation in performance" and "of quality and proper design" shall be made in accordance with good engineering practices as defined in the latest principles and standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers, and the Electronic Industries Association. In case of any conflict between the latest standards and principles of the above groups, the following precedence in the interpretation of the standards and principles shall apply: (1) American Institute of Electrical Engineers, (2) Institute of Radio Engineers, and (3) Electronic Industries Association.

(C) *Fire and Explosive Hazards*.

All activities involving, and all storage of, flammable and explosive materials shall be provided at any point with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in the industry. Burning of waste materials in open fires is prohibited at any point. The relevant provisions of State and other local laws and regulations shall also apply to life, property or public welfare in the occupancy of a Structure or premises.

(D) *Glare and Heat*.

Any operation producing intense glare or heat shall be conducted within an enclosed Building or with other effective screening in such a manner as to make such glare or heat completely imperceptible from any point along the property line. No heat from any use shall be sensed at any property line to the extent of raising the ambient temperature of air or materials more than five (5) degrees Fahrenheit. Any operation or activity that produces glare shall be conducted so that direct or indirect light from the source shall not cause illumination in excess of five-tenths (5/10) footcandles measured at the property line.

(E) *Light Glare*. Outdoor lighting shall be regulated as specified under the Lighting design standards of the West Pennsboro Township Subdivision and Land Development Ordinance.

(G) *Liquid or Solid Wastes*.

No discharge shall be permitted at any point into any sewage disposal system, or watercourse, or lake, or into the ground, except in accordance with standards approved by the PA Department of Environmental Protection or other regulating department or agency of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements. There shall be no accumulation of solid wastes conducive to the breeding of rodents or insects.

(H) *Noise*.

1. In all zones, the sound-pressure level for all uses and activities, except for agricultural, horticultural and forestry uses, shall not exceed the decibel limits in the octave bands designated in Table 4.11 and shall comply with the following standards. Should the ambient noise level at any location exceed the above standards, that ambient noise level shall become the maximum permitted noise level at that location. The maximum permitted noise level shall be applied to regularly occurring uses and activities; short-term temporary noises and infrequent instantaneous noises may be permitted at noise levels 20 dBA higher than the above-described standards, but only between 7 AM and 10 PM prevailing time.

Table 4.11, Maximum Permitted Sound Level in Decibels Along the Property Line

Measurement Taken Along an Adjoining Property Within the Following Districts	Time Period	Maximum Permitted Noise Level
A, R1, R2, R3, and MU	7 AM to 10 PM EST	50 dBA
A, R1, R2, R3, and MU	10 PM to 7 AM EST	45 dBA
C, I, and Q	7 AM to 10 PM EST	70 dBA
C, I and Q	10 PM to 7 AM EST	55 dBA

2. *Measurement*. Sound levels shall be measured with a sound-level meter and associated octave band filter manufactured in accordance with the American National Standards Institute (ANSI). Noises capable of being measured shall be those noises which cause rapid fluctuations of the sound-level meter with a variation of no more than plus or minus two decibels. Noises incapable of being measured, such as those of irregular and/or intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses.

3. *Exemptions*. The following activities or sources are exempt from these noise standards:

   a. Activities covered by the following: stationary signaling devices, domestic power tools, air-conditioning and air-handling equipment for residential purpose, and refuse collection vehicles.

   b. The unamplified human voice.

   c. The lowing of cattle, the clucking of fowl, the neighing of horses or other normal sounds of reasonably cared for agricultural animals, as well as the sounds of necessary farming equipment for a bona fide agricultural operation. Noises related to domestic animals are regulated by Ordinance 67 of the Code.

   d. Fixed-wing aircraft operations.

   e. Construction or routine maintenance of public service utilities.

   f. Temporary activities relating to the construction and maintenance of Buildings and facilities including site preparation between 6:00 AM to 9:00 PM EST.

   g. Church bells or chimes.

   h. The emission of sound for the purpose of alerting persons of an emergency, or the emission of sound in the performance of emergency work.

   i. Occasionally used safety signals, warning devices and emergency pressure relief values.

(E) *Radioactive Radiation*.

No activities shall be permitted which emit dangerous radioactivity at any point beyond the property line. The handling of radioactive materials, the discharge of such materials into air and water, and the disposal of radioactive materials, the discharge of such materials into air and water, and the disposal of radioactive wastes, shall be in conformance with the regulations of the Atomic Energy Commission as set forth in Title 10, Ordinance One, Part 20 - Standards for Protection Against Radiation, as amended; and all applicable regulations of the Commonwealth of Pennsylvania.

(F) *Vibration Hazards*.

No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or beyond the Lot line; nor shall any vibration produced exceed 0.002g peak at up to fifty (50) cps frequency, measured at or beyond the Lot line using either seismic or electronic vibration measuring equipment. Vibrations occurring at higher than fifty (50) cps frequency or a periodic vibration shall not induce accelerations exceeding 0.001g. Single impulse aperiodic vibrations occurring at an average interval greater than five (5) minutes shall not induce accelerations exceeding .01g.

Section 4.17 Storage of Recreation Vehicles

(A) *Recreational Vehicles, Boats and Trailers*. Within any R1, R2, R3, MU Zone, on or after the date of the amendment of this subsection, the unenclosed storage of recreational vehicles, boats and trailers shall be permitted with specific standards. Only trailers used for domestic purposes and trailers used solely for the residents' recreational vehicle(s) are permitted to be stored. The standards for storage shall be:

1. The parking or storage of up to two (2) above referenced recreational vehicles, boats and trailers shall be permitted per lot behind the Building setback line, so long as such recreational vehicles, boats and trailers are set back no less than ten (10) feet from any adjoining lot line;

2. The temporary parking of one (1) recreational vehicle that cannot meet the parking and storage criteria as per Subsection (A)1., specified above shall be permitted for periods not to exceed seventy-two (72) hours during any calendar month, provided that such vehicle does not extend into the street Right-of-Way; and

3. On vacant lots, the vehicle must be stored behind the required front yard setback line as specified for principal uses.

(B) Within any Zone, the parking or storage of heavy equipment shall only be permitted if such vehicles are related to any principal or accessory use of the property;

(C) Upon properties used for residential purposes, the parking or storage of heavy equipment shall be only permitted if one of the following occurs:

1. Within an enclosed garage or;

2. Under a carport or;

3. Within the front yard upon a driveway, provided that such equipment is located behind the required front yard setback line and is no less than ten (10) feet from the closest side and/or rear lot line.

(D) No heavy equipment or recreation vehicle shall be used as a residence or any other living, sleeping, lodging, or housekeeping activities for a period exceeding thirty (30) consecutive days during any calendar year;

(E) No heavy equipment, recreation vehicle, portable storage pod, or truck bed shall be used for the purpose of providing storage for any residence or business;

(F) Under the following circumstances, the parking or storage of heavy equipment and recreation vehicles are exempt from the preceding regulations:

1. When heavy equipment is engaged in local deliveries;

2. When the equipment or vehicle experiences mechanical failure requiring towing or repair. In such cases, the vehicle is permitted to remain until it can be towed or repaired, but not exceeding twenty-four (24) hours;

3. While the driver eats a meal or takes a rest for no longer than two (2) hours;

4. When heavy equipment is actively used at a construction site; and

5. When heavy equipment is owned or contracted by the Township.

Section 4.18 Swimming Pools

Swimming pools shall be a permitted accessory use where specified in the district regulations in accordance with the following requirements:

(A) *General Regulations*.

1. The swimming pool shall be intended and be used solely for the enjoyment of the occupants of the principal use of the property on which it is located.

2. No swimming pool shall discharge water or be drained into a sanitary sewer system or a storm sewer system.

(B) *Location and Setbacks*.

1. The swimming pool, or accessory Building(s) adjacent thereto, shall be located no closer than ten (10) feet from the principal Building.

2. Swimming pools shall not be located in the front yard.

(C) *Barrier Requirements*. All swimming pools must comply with applicable Building codes.

Section 4.19 Temporary Portable Storage Units and Roll-Off Dumpsters

(A) It shall be a violation of this Ordinance for any Person or anyone acting as his agent or on his behalf to place or permit the placement of a Temporary Portable Storage Unit (hereinafter "unit") or Roll-off Dumpster (hereinafter "dumpster") on any property which that Person owns, rents, occupies or controls without complying with the standards of this Article.

(B) *Permit Required*. No Person shall place upon, cause to be placed upon, or permit to remain on a property located in the Township a unit or dumpster without first obtaining a zoning permit from the

Township. In addition to the permit application requirements, the application shall also include the following information:

1. Applicant's relationship to the property (Owner, renter, occupier, or controller);

2. Address of the property upon which the unit or dumpster will be located;

3. Proposed delivery and removal dates of the unit or dumpster;

4. Any related Building permit numbers;

5. A sketch of the proposed location or placement for the unit or dumpster; and

6. The name, address and telephone number of the company who owns the unit or dumpster.

(C) *Duration*.

1. The unit or dumpster shall be located at the permittee's specified property location address for a maximum of thirty (30) days, including the days of delivery and removal. At the expiration of the thirty (30) day period, the Applicant may seek to extend the permit for an additional thirty (30) days by requesting an extension of cause from the Zoning Officer. No extensions shall be granted in excess of one hundred and eighty (180) days, including the initial period, except in the event of a catastrophic fire or other event causing substantial damage to the Structure.

2. *Construction, Renovation, and Demolition Exception*. Notwithstanding the provisions of Subsection (C)1, a dumpster shall be permitted for the period that a valid Building permit is issued for any construction, reconstruction, alteration, renovation or demolition of a Structure on a property located in the Township, upon compliance with all other provisions of this Ordinance. A valid Building permit shall be submitted with the permit application. All units or dumpsters must be removed prior to the occupancy of the Building. The Township shall not issue an occupancy permit until all units or dumpsters are removed from the property.

(D) *Location*. A permit granted under this Ordinance shall limit placement of a unit or dumpster to a single specified location that is identified in the permit. A unit or dumpster shall be located on a property or a Street in accordance with the following criteria:

1. A unit or dumpster shall not be placed closer than ten (10) feet from a property line unless placed on an existing impervious driveway.

2. No unit or dumpster may be placed so as to impede a parking area, loading area, aisle, driveway or Cartway.

3. No unit or dumpster shall be placed within the Street Right-of-Way. However, in instances where placing the unit or dumpster in the Right-of-Way is the only option, then Owner shall maintain Liability Insurance as specified under Subsection (K) below.

4. The unit or dumpster shall be placed in the first available location in the following order of priority: rear driveway (furthest point accessible from the Street), rear yard, front/side driveway, side yard, front yard, Street.

5. No unit or dumpster shall be placed on or over any curb or sidewalk.

6. The location of the unit or dumpster shall not impede clear sight lines.

7. The placement of the unit or dumpster shall not damage any portion of the public Street, including the berm or shoulder. Any damage to the Street, berm, or shoulder shall be paid and repaired by the permittee based on the review and approval by the Township Engineer. The permittee shall also be responsible for the cost of Township Engineer's inspection of the repair.

8. No unit or dumpster shall be located in a floodplain.

(E) *Contents*. The contents of a unit or dumpster shall comply with the following criteria:

1. No unit or dumpster shall contain any illegal or hazardous material, solid waste, or recyclable materials;

2. A dumpster must be emptied within three (3) days of being filled to capacity;

3. A unit shall be removed from the property or Street within forty-eight (48) hours of being filled to capacity or filled to a point that no further personal property is to be added to the unit;

4. No unit or dumpster shall cause any foul, noxious or offensive odor to be emitted; and

5. At any reasonable time, the Zoning Officer or his or her designated agent may inspect the contents of a unit or dumpster to ensure compliance with this Ordinance.

(F) *Responsibility*. It shall remain the permittee's obligation to ensure that a unit or dumpster is secured such that it does not endanger the safety of persons or property in the vicinity. The permittee shall maintain the unit or dumpster in good condition, free from deterioration, weathering, discoloration, graffiti, rust, ripping, tearing, holes and breaks at all times. Permittee is responsible to ensure the presence of reflective materials or illuminating marks on a minimum of four sides of the unit or dumpster. In addition to compliance with this Ordinance, permittee shall comply with all other federal, state or local statutes, rules and regulations applicable thereto.

(G) *Revocation and Removal*. All units or dumpsters shall be removed upon expiration of the permit. Any approved permit can be revoked by reason of the permittee's false statement or omission. The Zoning Officer can revoke any permit and/or, without notice, immediately remove the unit or dumpster if the permittee violates this Ordinance; if the dumpster becomes a safety hazard; or if the unit or dumpster is not removed from the property prior to the expiration of the permit (or by direction of law enforcement officer or Township Public Works Director for safety reasons. The cost of removal by the Township shall be assessed against the property on which the unit or dumpster is located and filed as a lien by the Township.

(H) *Size*. A unit or dumpster shall not exceed eight (8) feet six (6) inches in Height, ten (10) feet in width, or twenty (20) feet in length.

(I) *Emergency*. In the event of high winds, weather conditions, or a natural disaster in which a unit or dumpster may become a physical danger to persons or property, the appropriate Township official or law enforcement officers may require the immediate removal of such unit or dumpster.

(J) *Preemption*. Notwithstanding any of the provisions of this Ordinance, if the Commonwealth of Pennsylvania at any time has or places restrictions on roads over which it has jurisdiction that are more restrictive than the requirements of this Ordinance, then those restrictions shall supersede those of this Ordinance. If the Commonwealth of Pennsylvania notifies a permittee that the is in violation

of a state standard, then such violation shall automatically rescind and void any permits issued under this Ordinance.

(K) *Liability Insurance*. When placing a unit or dumpster in the public Street Right-of-Way is the only option, as a condition of the issuance of a zoning permit under Subsection (B)3., the Applicant or property owner shall provide evidence of current commercial general liability insurance coverage as evidenced by an certificate of liability insurance, in an amount of at least $1,000,000 per occurrence and $2,000,000 aggregate for bodily injury and property damage and naming West Pennsboro Township as an additional insured. The certificate of liability insurance shall be subject to approval by the Township Solicitor and shall note a policy effective date and expiration date that covers the time period for which the permit has or will be issued and any applicable time period for which the permit may be extended.

(L) *Indemnification*. The Applicant or property owner shall execute an indemnity agreement, in a form reasonably acceptable to West Pennsboro Township, agreeing to indemnify, save harmless and defend the Township, its elected officials, appointees, agents, servants, and employees and each of them against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and reasonable attorney's fees, for or on account of any bodily injury to any person or any death at any time resulting from such injury or any damage to any property, which may arise or which may be alleged to have arisen out of or in connection with the placement or utilization of the unit or dumpster in the public Street Right-of-Way.

Section 4.20 Traffic Impact Studies

(A) Where a traffic impact study is required by this Ordinance or the West Pennsboro Subdivision and Land Development Ordinance, such study shall comply with the following:

1. The traffic impact study shall be prepared in accordance with the West Pennsboro Subdivision and Land Development Ordinance;

2. Deviations from the requirements of the West Pennsboro Subdivision and Land Development Ordinance that are proposed during the subdivision / land development process shall be permitted as a waiver under the terms of said Ordinance; and

3. Deviations from the requirements of the West Pennsboro Subdivision and Land Development Ordinance that are proposed during the zoning permit process that do not involve subdivision / land development review shall be permitted as a variance.

Section 4.21 Vehicular Access

(A) *Purpose*. Whenever motor vehicle access is provided from the Street onto the Lot, the following regulations shall apply.

(B) *Required Vehicular Access*. Every Building hereafter erected or moved to a vacant Lot which existed at the time of enactment of this Ordinance, shall be on a Lot adjacent to a public Street Right-of-Way. The erection of Buildings without approved access shall not be permitted. The erection of a principal Building on any Lot which existed at the time of the enactment of this Ordinance and does not have frontage on a public Right-of-Way shall be permitted if the Applicant provides proof of access to the property in the form of a legal document recorded with the Cumberland County Recorder of Deeds. If the existing document does not address access rights and maintenance responsibilities between the landowner and effected parties, or if no such document exists, a new document shall be recorded that does address these issues. In addition, the landowner shall enter into a binding legal agreement with the Township prepared by the Township Solicitor outlining the responsibility of each party as it pertains to the private Right-of-Way.

(C) Access to the Lot shall comply with the following requirements.

1. Not more than two (2) driveways for each one hundred (100) feet of frontage on any Street or private road are permitted for each Lot.

2. In the residential districts, single-family attached driveways may Abut so long as all other requirements of this section are met.

3. No residential driveway shall be closer to a side property line than three (3) feet except shared driveways as may be permitted by the Township Subdivision and Land Development Ordinance. No portion of a driveway, including radius, may cross an extended side property except for single-family attached driveways.

4. Each driveway shall be paved between the Street and the principal Structure upon the Lot. Where a residential principal Structure upon the Lot is more than fifty (50) feet from the Street Right-of-Way line, the length of the paved driveway shall be no less than fifty (50) feet, beginning at the Street pavement. The entire radius shall fall within the Right-of-Way. Driveways located on an unpaved Street are exempt from the paving requirement. Where a nonresidential Structure is constructed, the length of driveway to be paved shall extend from the Street pavement to either the paved parking area or the Structure itself if no parking area is provided. Agricultural operations structures are exempt from this requirement.

5. The minimum and maximum widths for driveways shall conform to the standards specified in the West Pennsboro Township Subdivision and Land Development Ordinance.

6. There shall be a minimum ten (10) feet of tangent distance between the intersecting road radius and the radius of the driveway. The distance from the edge of pavement of the intersecting road to the radius of the driveway shall be a minimum of twenty (20) feet on curbed roads or thirty (30) feet on uncurbed roads. This standard may be increased based on traffic volume, sight distance and other site constraints as recommended by the Township Engineer.

7. Driveways shall not cross the Street Right-of-Way within five (5) feet of a fire hydrant, catch basin or drain inlet.

8. Residential driveways shall not cross the Street Right-of-Way within forty (40) feet of another driveway of the same dwelling unit, except in the case where dual access driveways are deemed necessary by the Township Engineer to permit safe ingress and egress, where these dimensions may be reduced to not less than twelve (12) feet between two (2) access drives.

9. Nonresidential driveways shall not cross the Street Right-of-Way commercial and industrial districts within twenty (20) feet of a property line unless two adjoining property owners mutually agree in a legally recorded instrument (i.e., deed, recorded subdivision) to a common driveway.

10. Driveways shall be constructed in accordance with the design and improvement standards of West Pennsboro Township Subdivision and Land Development Ordinance.

11. Driveways located on a state road shall obtain a highway occupancy permit from the Pennsylvania Department of Transportation prior to the issuance of a zoning permit.

12. Prior to the issuance of a zoning permit, a site plan shall be submitted which includes the driveway location, width, construction specifications, sight distance and distance from property lines. A zoning permit shall be required when a driveway is newly installed, added, enlarged, or relocated.

13. Any new residential driveway required to be paved shall be constructed within a period of one (1) year from the issuance of a permit for the improvement upon the Lot. Any added, enlarged or relocated driveway shall be paved within one year of the issuance of a zoning permit. Any new nonresidential driveway shall be paved prior to receiving an occupancy permit or as soon as weather allows (referring to a paving season).

Section 4.22 Yard/Garage Sales

(A) In addition to the other applicable requirements of the Township, Yard/Garage Sales shall also be governed by the following provisions:

1. A Yard/Garage Sale shall include only the occasional sale of personal effects and shall not include wholesale sales.

2. A Yard/Garage Sale may be conducted no more than three (3) times per calendar year and last no longer than three (3) consecutive calendar days.

3. Yard/Garage sales shall only be conducted by the owner of the Lot or tract where such activity is conducted or by an occupant of the dwelling unit thereon erected.

ARTICLE 5 SIGN REGULATIONS

(A) *Purpose*. The sign regulations, controls and provisions set forth in this part are made in accordance with an overall plan and program for the provision of public safety, land development, preservation of property values, and the general welfare of the Township of West Pennsboro and are intended to:

1. Aid in traffic control and traffic safety;

2. Preserve and protect property values;

3. Lessen congestion of land and air space;

4. Provide against undue concentrations of signs which distract and endanger traffic safety and traffic flow;

5. Establish reasonable standards for commercial and other advertising through the use of signs in order to maintain and encourage business activity and development;

6. Recognize the rights of the public in roads, streets, highways and the areas adjacent to those roads, streets and highways;

7. Preserve the wholesome and attractive character of the Township; and,

8. Recognize that the general welfare includes a community that shall be beautiful as well as healthy, spacious as well as clean, and well-balanced in its growth and development.

(B) *General Regulations for All Signs*.

1. Signs must be constructed of durable material and maintained in good condition.

2. Whenever a sign becomes structurally unsafe or endangers the safety of the Building or premise, or endangers the public safety, the Zoning Officer shall give written notice to the owner of the premises on which the sign is located that such sign must be made safe or removed within five (5) days.

3. Each sign shall be removed when the circumstances leading to its erection no longer apply.

4. Signs may be interior lighted with non-glaring lights or may be illuminated by floodlights or spotlights that are shielded so there is no direct light transmitted to other properties, public Rights-of-Way or in an upward direction.

5. Directly illuminated signs, designed to give forth artificial light directly or through transparent or translucent material from a source of light within such sign, including, but not limited to neon, will be permitted providing that the light being emitted from the sign shall not cause a glare or emit light onto the surrounding area or in an upward direction.

6. No sign shall be located so as to interfere with visibility for motorists at street or driveway intersections.

7. All electrically illuminated signs shall be constructed to the standards of the National Board of Fire Underwriters.

8. Signs must be positioned so that they do not interfere with any clear sight triangle.

9. No loud, vulgar, indecent, or obscene advertising matter shall be displayed in any manner, including, but not limited to:

   a. Any graphic illustration pertaining to specified sexual activities and/or specified anatomical areas; and,

   b. Scenes wherein artificial devices are employed to depict, or drawings are employed to portray any of the prohibited signs, photographs or graphic representations described above.

10. No sign shall be erected or located as to prevent free ingress or egress from any window, door or fire escape.

11. No sign shall be placed in such a position that it will obscure light or air from a Building or which would create a traffic danger.

12. No sign shall be permitted which is permanently attached to public utility poles nor trees which are within the Right-of-Way of any Street.

13. In the event that a symbol, trademark or other such figure is used as a signpost or standard which could be construed to indicate or identify a particular use or business, that symbol, trademark or figure is to be computed as part of the total allowable sign area.

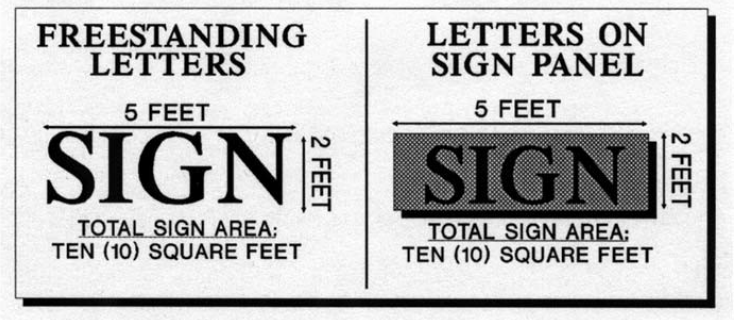
14. Except in the case of billboards, only those signs referring directly to services, materials or products made, sold, or displayed on the premises shall be permitted.

15. No point of any sign, including trim, border and supports, shall be located within ten (10) feet of any side or rear property line or within the Street Right-of-Way line.

16. No point of a wall projecting sign shall be located less than eight and one-half (8½) feet above the grade directly below the sign.

17. *Determination of Size of Sign Area*.

   a. The area of a sign shall be construed to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, including any border framing or decorative attachments, but not including any supporting framework or bracing incidental to the display itself. Where the sign consists of individual letters or symbols attached to a Building, wall or window, the area of the sign shall be that of the smallest rectangle or other regular geometric shape which encompasses all of the letters and symbols.



b. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign; provided, however, for a double-face sign, if the interior angle formed by the two faces of the double-face sign is less than forty-five degrees (45) and the two faces are at no point more than three (3) feet from one another, the area of only the larger face shall be included.

18. *Electronic Signs*.

a. No electronic sign shall be permitted which attempts or appears to attempt to direct the movement of traffic or which interferes with, imitates, or resembles any official traffic sign, signal or device.

b. Electronic Variable Message Signs shall meet all applicable sign requirements in this Ordinance.

c. Clocks, hanging signs which move by action of normal wind currents, time and temperature signs and barber poles are exempt from the requirements in this section.

d. Signs which flash, strobe, make noise or show pyrotechnics are not permitted.

(C) *Specific Sign Requirements*. Tables 5-1 and 5-2 tabulate requirements imposed upon permanent, temporary, and planned center signs as permitted within the Township.

(D) *Amortization of Nonconforming Signs*.

1. Any sign (excluding Billboards) that was legally existing as of the effective date of this Ordinance, that does not comply with the provisions listed in this Article, shall be considered a Nonconforming Sign.

2. All such nonconforming signs will be required to conform at such time as seventy-five (75) percent or greater of the sign area is changed and/or destroyed in any way, including, but not limited to, wording, logo, design, lighting and/or material composition. Nonconforming signs approved by variance will also be subject to this Section.

3. This Section shall supercede any requirement listed in Section 4.09, Nonconformities, of this Ordinance.

(E) *Prohibited Signs*. The following types of signs shall not be permitted in the Township:

1. Signs of such a design and location that they interfere with, compete for attention with, or may be mistaken for a traffic signal. This shall include any sign visible from the public Right-of-Way which uses an arrow device or the word "stop." It shall also include signs in which the colors red and green are used either in direct illumination or in high reflection by the use of special preparation, such as fluorescent paint or glass;

2. Any sign located in or extending into a public Right-of-Way, except those owned or operated by a duly constituted government; and,

3. Any freestanding or projecting sign within an area bounded by the intersection of two (2) Rights-of-Way and twenty (20) feet from such intersection along the rights- of-way, except permanent, on-site directional signs less than three (3) feet in height as permitted by Section (C) of this Article.

Table 5-1, Permanent Sign Requirements

Sign Type	Max. Permitted Number	Max. Permitted Sign Area per Permitted Sign	Max. Height of Freestanding Signs	Max. Height of Flat Wall Signs	Max. Height of Wall Projecting Signs	Max. Projection from Wall for Wall Projecting Signs	Permitted Zones	Other Requirements	Permit Required
Signs owned and associated with uses operated by the Township. Official traffic signs.	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	All		No
Signs identifying public and semi- public uses (e.g., schools, churches, utilities, hospitals, libraries, parks, fire stations, post offices, and other similar uses).	2 per principal use	64 square feet	10 feet	Height of wall to which sign is attached.	N/A	10 feet, but no closer than 10 feet from any lot line.	All	No flat wall sign, nor wall projecting sign shall be larger than 15% of the wall area to which the sign is attached	Yes
Residential nameplates identifying name of home, its occupant, or both, not including name listing on mailbox.	1 per dwelling unit	2 square feet	5 feet	10 feet	Not Permitted	Not Permitted	All		No
Property control signs (e.g., "No Trespassing," "Private Property," "No Hunting or Fishing," "Posted," "Private Drive," or similar type signs).	1 per 25 lineal feet of property line	2 square feet	5 feet	Not Permitted	Not Permitted	Not Permitted	All	Spacing at no less than 25-foot intervals.	No
Residential development/neighborhood signs. Such signs shall only list the name of the neighborhood/development and shall not list any names of contractors, realtors, or both.	1 per street entrance, but no more than 2 total	32 square feet	15 feet	Height of wall to which sign is attached	N/A	10 feet, but no closer than 10 feet from any lot line.	A, R1, R2, R3, and MU	The Applicant shall submit a written description of the maintenance responsibilities in a form satisfactory to the Township Solicitor	Yes
Individual business signs identifying the name and type of business, any trademark of the business conducted on the premises, or any combination thereof. This does not include businesses contained within planned centers, as defined herein.	2 per principal use	Agriculture, Forestry, Recreation and Open Space Uses not to exceed 32 square feet. All other uses not to exceed 64 square feet per sign	10 feet	Height of wall to which sign is attached	N/A	10 feet, but not closer than 10 feet from any lot line.	All	No flat wall sign, nor wall projecting sign shall be larger than 15% of the wall area to which the sign is attached	Yes
On-site directional, entrance, exit, rest room, and other informational signs.	4 per Building	2 square feet	5 feet	10 feet	Height of wall to which sign is attached	2 feet	All		No
Billboards	See Section (G) of this Article								Yes

Table 5-2 Temporary Sign Requirements

Sign Type	Max. Permitted Number	Max. Permitted Sign Area per Permitted Sign	Max. Height of Freestanding Signs	Max. Height of Flat Wall Signs	Max. Height of Wall Projecting Signs	Max. Projection from Wall for Wall Projecting Signs	Permitted Zones	Other Requirements	Permit Required
Temporary signs of contractors, architects, mechanics, landscapers, and artisans, displayed only while actual on-site work is in progress.	1 per firm whose work is in progress	6 square feet	5 feet	Not Permitted	Not Permitted	Not Permitted	All	Should a sign be left on-site beyond the time while work is in progress , the Township may impound and dispose of any signs	No
Real estate sale, sold, or rent signs when placed upon the property (unit) to be rented or sold, containing less than 3 acres.	1 per street frontage, maximum of 2 signs	32 square feet	5 feet	Height of wall to which sign is attached	Not Permitted	Not Permitted	All	All such signs shall be removed within 5 days of final sales transaction or upon rental occupancy or be subject to Township impoundment and disposal	No
Real estate sale, sold, or rent signs when placed upon the property (unit) to be rented or sold, containing more than 3 acres.	1 per street frontage, maximum of 2 signs	32 square feet	5 feet	Height of wall to which sign is attached	Not Permitted	Not Permitted	All	Same as above	No
Proposed development signs for residential, office, or both, complexes.	1 per street frontage, maximum of 2 signs	32 square feet	10 feet	Height of wall to which sign is attached	Not Permitted	Not Permitted	All, but only after final plan is approved.	Such signs shall be removed upon completion of construction of final unit	No
Proposed development signs for commercial uses, industrial uses, other nonresidential,uses, or any combination thereof.	1 per street frontage, maximum of 2 signs	64 square feet	10 feet	Height of wall to which sign is attached	Not Permitted	Not Permitted	MU, C, I, and Q, but only after final plan approval	All such signs shall be removed upon completion of Building construction	No
Special event signs for businesses (e.g., grand openings, change of use or ownership, closeout sale, clearance sale, holiday sale, etc.).	1 per business per event	32 square feet	10 feet	Height of wall to which sign is attached	Not Permitted	Not Permitted	MU, C and I	Such signs may only be used during two consecutive periods per calendar year, not exceeding 30 days total	No
Roadside stand signs for the sale of agricultural products upon a principal farm property.	2 per farm	5 square feet	5 feet	Height of wall to which sign is attached	Height of wall to which sign is attached.	5 feet	All	Roadside stand signs shall only be displayed during seasons when products are for sale	No
Garage/yard sale signs upon properties conducting such sales.	2	4 square feet	5 feet	Height of wall to which sign is attached	Height of wall to which sign is attached	5 ft.	All	See Section 4.22. for additional requirements	No
Political Campaign Signs.	Unlimited	N/A	N/A	N/A	N/A	N/A	All	N/A	No

(F) *Sign Permits*. For signs requiring permits in Section (C) of this Article, the following requirements shall apply prior to the erection of said signs:

1. *Permit Applications*.

   a. Application for a permit shall be made at the Township Office;

   b. Application shall be made on a form to be provided by the Township and shall contain the following information and documentation:

      a. The name(s) and address(es) of the sign owner and the land- owner;

      b. An affidavit of title executed by the landowner(s) indicating the date and place of recording of the present title to the land;

      c. A drawing to scale, showing the location of the sign with reference to the adjoining property lines and streets;

      d. A drawing to scale, showing all dimensions of the sign. For a directional sign or an on-premise sign advertising activities being conducted on the property, the drawing shall also contain an accurate representation of the advertising or informative contents of the sign; and,

      e. A description of the construction materials of the sign and its manner of installation;

   c. Each application shall be accompanied by the appropriate fee, as established by the Board of Supervisors.

2. All applications shall be reviewed, and permits issued, by the Zoning Officer. No sign permit shall be issued, except in conformity with the regulations of this Ordinance, except upon order of the Zoning Hearing Board, granted pursuant to the procedures established for the issuance of a Variance.

3. *Permit Issuance*. Following permit application approval, a sign permit will be issued by the Zoning Officer upon receipt of all required fees.

4. If there is any change in location or dimensions of any sign, or in advertising or informative contents of a sign, a new permit shall be required.

5. *Revocation of Permits*.

   a. All permits shall be subject to revocation upon fifteen (15) days written notice for violation of any provision or upon change of information provided in the application; and,

   b. Revocation of a permit shall not be cause for refund of the permit fee.

(G) *Billboards*. The following supplemental regulations shall apply to Billboards as defined in Article 6 of this Ordinance:

1. No Billboard shall be located within one thousand (1,000) feet of another billboard.

2. All Billboards shall be a minimum of twenty-five (25) feet from all property lines and Street Rights- of-Way.

3. All Billboards shall be set back at least one hundred and fifty (150) feet from any land within a residential zone.

4. No Billboard shall obstruct the view of motorists on adjoining roads, or the view of adjoining commercial or industrial uses, which depend upon visibility for identification.

5. No Billboard shall exceed an overall size of three hundred (300) square feet, nor exceed twenty-five (25) feet in height.

6. All properties upon which a Billboard is erected shall be regularly maintained so as not to create a nuisance by means of weeds, litter or vector habitation.

7. Any lighting used for Billboards shall be designed to only illuminate the face of the billboard and not cast glare on adjoining areas or in an upward direction.

ARTICLE 6 DEFINITIONS

Section 6.01 Rules of Interpretation

(A) The following rules apply to the interpretation of this Ordinance:

1. Words in the singular include the plural and those in the plural include the singular;

2. Words used in the present tense include the future tense;

3. The words "Person", "Applicant", "Developer", and "Owner" include a corporation, unincorporated association and a partnership, or other legal entity, as well as an individual engaged in the subject activity;

4. The word "Building" includes Structure and shall be construed as if followed by the phrase "or part thereof";

5. The word "Watercourse" includes channel, creek, ditch, dry run, spring, Stream and river;

6. The words "should" and "may" are permissive; the words "shall" and "will" are mandatory and directive;

7. The word "Lot" includes the word plot or parcel; and

8. The word "used" or "occupied" as applied to any land or Building shall be construed to include the words "intended, arranged or designed to be used or occupied."

Section 6.02 Defined Words and Terms

(A) Words and terms used in this Part shall have the meanings given in this Section. Unless expressly stated otherwise, any pertinent word or term not part of this listing but vital to the interpretation of this Ordinance, shall be construed to have their legal definition, or in absence of a legal definition, their meaning as commonly accepted by practitioners including Registered Design Professionals and/or Certified Planners.

ABANDONMENT – The relinquishment of property, or a cessation of the use of the property, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

ABANDONMENT OF WELL – An abandoned or unused well may be defined as one or more of the following:

1. A well, other than a monitoring well, which has been out of service continuously for one year or more, and does not meet the definition of a standby well.

2. A monitoring well from which no measurement or sample has been taken for a period of three (3) years.

3. A well that is in such a state of disrepair that it cannot be made operational for its intended purpose.

4. A test hole or exploratory boring twenty-four (24) hours after construction and testing work has been completed.

5. A cathodic protection well that is no longer functional for its original purpose.

6. Any boring that cannot be satisfactorily completed as a well.

7. An inactive geothermal groundwater heat exchange system.

ABUT OR ABUTTING – A Building(s) which physically touch; Areas of contiguous lots that share a common lot line, not including lots entirely separated by a street, public alley open to traffic or a perennial waterway.

ACCESS DRIVE – A paved surface, other than a Street, which provides vehicular access from a Street or private road to a Lot.

ACCESSORY USE OR BUILDING – A use or Building on the same Lot with, and of a nature customarily incidental and subordinate to, the principal use or Building.

ADA (AMERICANS WITH DISABILITIES ACT) – Signed into law on July 26, 1990, the ADA is a wide-ranging civil rights law that prohibits, under certain circumstances, discrimination based on disability. It affords similar protections against discrimination to Americans with disabilities as the Civil Rights Act of 1964, which made discrimination based on race, religion, sex, national origin, and other characteristics illegal.

ADDITION – An extension or increase in the footprint, floor area, Height or other dimension of a Building or Structure.

ADJACENT TRACT, PARCEL, OR LOT – Property that is Contiguous with, or directly across a public Street or other Right-of-Way from, the boundaries of any side of the subject property.

ADJOINING (LOT OR LAND) – A lot or parcel of land which shares all or part of a common lot line with another lot or parcel of land. (See Abut).

ADJUSTED TRACT AREA – The Gross Tract Area minus the constrained areas of the site that are not available for development in the underlying zoning district.

AEU PER ACRE – An animal equivalent unit per acre of cropland or acre of land suitable for application of animal manure.

AGENT – Any Person other than the Applicant who, acting on the landowner(s) authorized behalf, submits a subdivision or land development application.

AGRICULTURAL COMMODITY – Includes any of the following transported or intended to be transported in commerce: (1) agricultural, aquacultural, horticultural, floricultural, viticultural or dairy products; (2) Livestock and the products of livestock; (3) ranch-raised fur-bearing animals and the products of ranch-raised fur- bearing animals; (4) the products of poultry or bee raising; (5) forestry and forestry products; and (6) any products raised or produced on farms intended for human consumption and the processed or manufactured products of such products intended for human consumption.

AISLE – The traveled way by which cars enter and depart parking spaces.

ALLEY (or SERVICE DRIVE) – A minor Right-of-Way, privately or publicly owned, primarily for service access to the rear or sides of properties.

ALTERATION OF NATURAL SITE FEATURES – Any earth moving, clearcutting, filling, mining, dredging, grading, paving, excavating, or drilling activities which require a permit or approval from Federal, State or local officials.

ALTERATIONS – As applied to a Building or Structure, any change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

AMENDMENT – A change in Use in a district that includes revisions to this Ordinance text or the official Zoning Map. The authority for any amendment lies solely with the Township Board of Supervisors.

ANIMAL EQUIVALENT UNIT (AEU) – One thousand (1,000) pounds live weight of livestock or poultry animals, on an annualized basis, regardless of the actual number of individual animals comprising the unit.

ANTENNA – an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

APPEAL – For the purpose of this Ordinance, an Appeal shall refer to a timely submitted and complete application on an application form prescribed by the Zoning Hearing Board for appeal of an order, requirement, Decision or Determination made by the Zoning Officer or rule or regulation adopted pursuant thereto.

APPLICANT – A Landowner or Developer, as hereinafter defined, who has filed an application for development including the Applicant's heirs, successors, and assigns (Also see DEVELOPER and SUBDIVIDER).

AREAS OF SPECIAL FLOOD HAZARD – The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

ATTIC – That part of a Building which is immediately below and wholly or partly within the roof framing. Within a dwelling unit, an attic shall not be counted as floor area unless it is constructed as or modified into a habitable room by an average ceiling Height of five (5) feet or more, and a permanent stationary interior access stairway to a lower Building story.

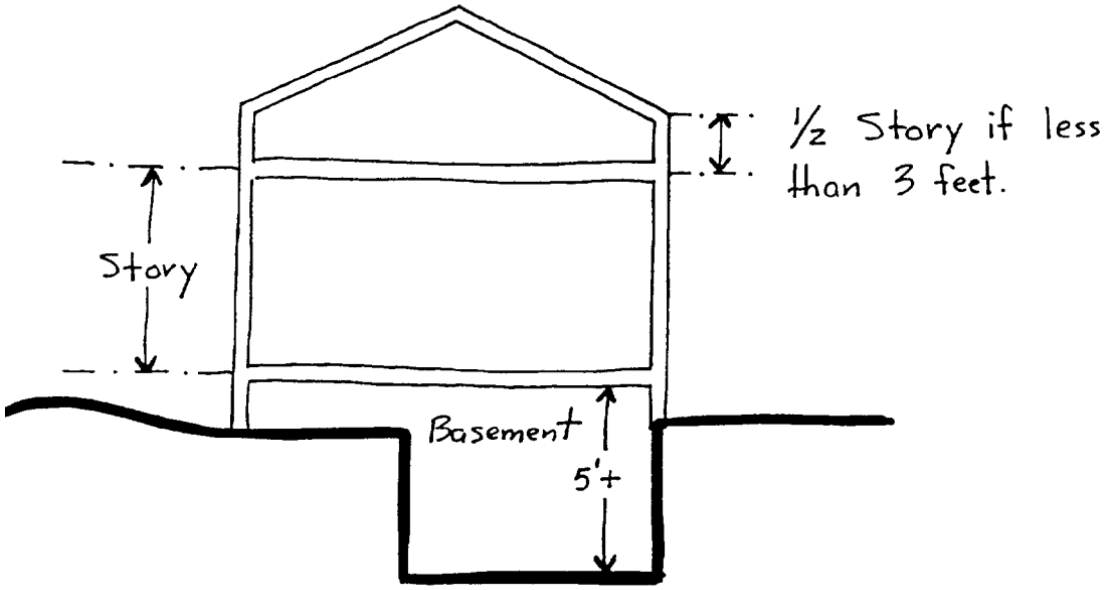
BASE FLOOD– A flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent (1%) annual chance flood).

BASE FLOOD DISCHARGE – The volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

BASE FLOOD ELEVATION (BFE) – The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

BASEMENT – That portion of a Building that is partially or wholly below ground level. This portion serves as a substructure or foundation for a Building. A basement shall be counted as a story for the purpose of height measurement, if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet (See Figure 6.01).

Figure 6.01, Basement and Story



BERM – A landscaped mound of earth or the act of pushing earth into a mound to shield, screen and buffer two separate, incompatible land uses. Berms may also be used to provide visual interest, decrease noise and control the direction of water flow.

BERTH – An off-street, off-alley area designed or used to load goods on, or unload from, vehicles.

BEST MANAGEMENT PRACTICES (BMPs) – State-of-the-art recommended practices for controlling stormwater runoff or handling hazardous substances.

BUILDING – Any Structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or property, including covered porches or bay windows and chimneys. Included shall be all manufactured homes and trailers to be used for human habitation.

BUILDING AREA –The horizontal area measured around the outside of the foundation walls plus the floors of roofed porches and roofed terraces, and including the area of accessory buildings if any. In the case of split-level dwellings, the "first floor area" shall be deemed to include floor areas on two non-overlapping levels, separated by a half story, or less, of height.

BUILDING COVERAGE – Total area of a Lot covered by Buildings. Measured from the outside of all exterior walls at ground level, it includes all exterior stairways, covered parking, and walkways. (See Figure 6.02).

BUILDING ENVELOPE – The area within a Lot where Buildings and other improvements shall be located as determined by the applicable Yard setbacks (See Figure 6.03).

BUILDING FACE – The general outer surface of any exterior wall of a Building or other Structure.

BUILDING FRONTAGE – The maximum linear width of a Building measured in a single straight line parallel, or essentially parallel, with the abutting public Street or parking Lot.

Figure 6.02, Building Coverage

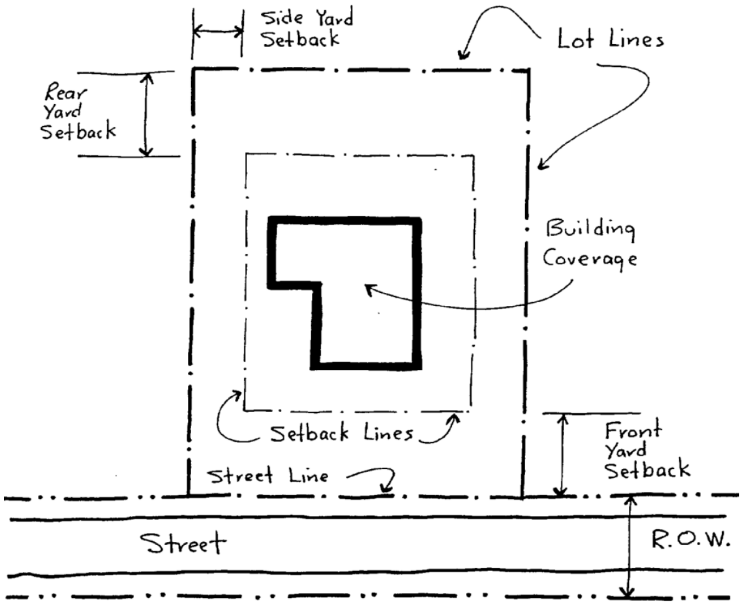
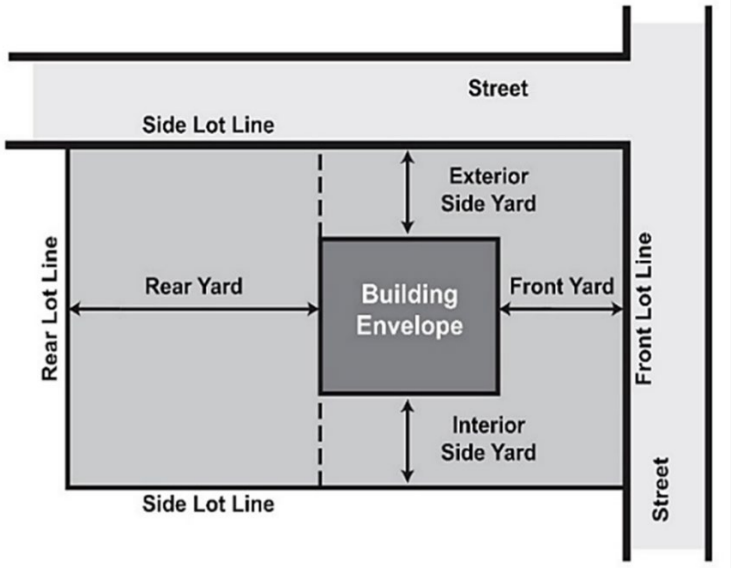
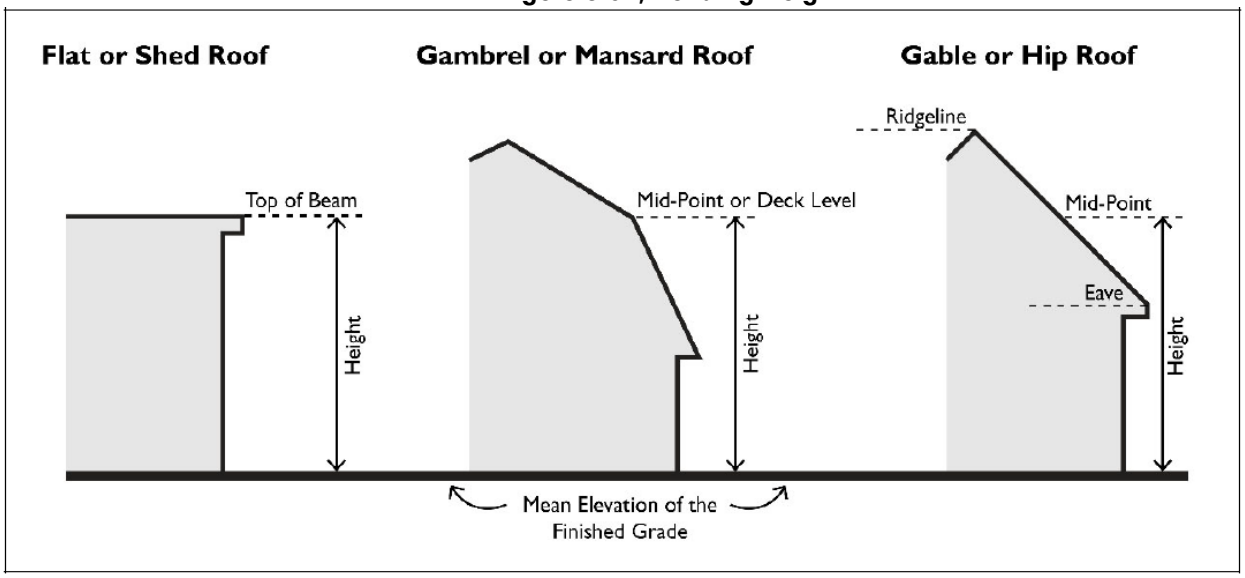


Figure 6.03, Building Envelope



BUILDING HEIGHT – The vertical distance calculated by subtracting the elevation of the highest point on the roof on flat or shed roofs and/or the elevation of the deck line on gambrel and mansard roofs and/or the average height between eaves and ridges on gable or hip roofs from the average elevation of finished grades at the outside walls facing and/or nearest to the Front Yard Setback lines (See Figure 6.04).

Figure 6.04, Building Height



BUILDING SETBACK LINE: The actual line of that face of the Building nearest an adjacent Right of Way or Street Line or property line. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

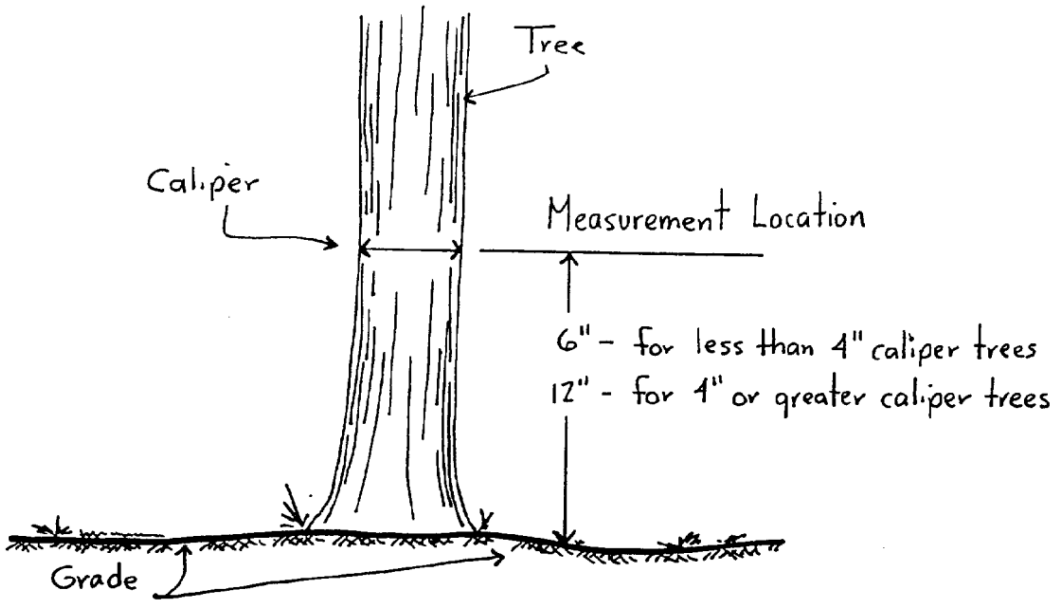
BUFFER – An area within a property or site generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences and/or berms, designed to limit continuously the view, sound and/ or light from the site to adjacent sites or properties.

BUSINESS DAY – Means a day that is not a recognized municipal or federal holiday and is not a Saturday or Sunday.

CALENDAR DAY – Means a period of 24 hours, typically measured from one midnight to the next, representing a single day on a calendar, including all 365 (or 366 in a leap year) days of the year. It includes weekends and holidays.

CALIPER, TREE – The diameter of a tree trunk, measured in inches, six inches above ground level for trees up to four inches in diameter and twelve (12) inches above ground level for trees over four (4) inches in diameter. The term applies to nursery stock (See Figure 6.05).

Figure 6.05, Tree Caliper



CARBONATE – A sedimentary bedrock made up of limestone and/or dolomite that is highly permeable and prone to fractures, solution channels and the formation of sinkholes.

CARTWAY – That portion of a street or alley Right-of-Way that is intended for vehicular movement exclusive of shoulders, curbs, sidewalks and swales.

CERTIFICATE OF USE AND OCCUPANCY – A certificate issued and enforced by the Township's appointed code enforcement officer after completion of the construction of a new Building or after a change or conversion of the Structure or use of a Building, and prior to the use of said Structure or Building, which certifies that all requirements and regulations as provided herein, as well as all other applicable requirements, have been satisfied.

CERTIFIED PLANNER – A person that has received certification through the American Institute of Certified Planners (AICP).

CHICKENS – Female poultry or foul of the species gallus domesticus.

CLEAR-SIGHT TRIANGLE – A triangular-shaped portion of land established by a Street or Driveway intersection in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the site distance of motorists entering or leaving the intersection.

CLUSTER DEVELOPMENT – A form of land development in which principal buildings and structures are grouped together on a site, thus saving the remaining land area for common open space, conservation, agriculture, recreation, and public and semipublic uses.

COLLOCATED WIRELESS COMMUNICATIONS FACILITY (COLLOCATED WCF) – Wireless communications facilities that are attached to existing structures, such as, but not limited to Buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles, and other similar structures that do not require the installation of a new or replacement wireless support Structure.

COLLOCATION – The mounting of one or more WCFs, including antennas, on a pre-existing Structure, or modifying a Structure for the purpose of mounting, or installing a WCF on that Structure.

COMMERCIAL VEHICLE – Any type of motor vehicle used for transporting goods or passengers for compensation. Commercial vehicle operations are categorized as either intrastate or interstate operations. Interstate operations require the Applicant to operate in Pennsylvania and at least one other jurisdiction.

COMMON FACILITIES – All the real property and improvements, owned in common by residents within the development; which is served by the facilities. Common facilities include, without limitation, landscaped areas, buffers, Common Open Space land not included within title lines of any privately owned Lot, and Street Rights-of-Way not dedicated to the municipality.

COMMUNITY ASSOCIATION – A non-profit organization comprised of homeowners or property owners, the function of which is to maintain and administer property owned in common by members of the association or by the association, to protect and enhance the value of the property owned individually by each of the members. Homeowners Associations and Condominium Associations are types of Community Associations.

COMMUNITY OR PACKAGE SEWAGE DISPOSAL SYSTEM – A private sewage disposal system releasing treated effluent either into the ground or a surface water source. A large-scale system is intended to serve over twenty-five (25) equivalent dwelling units (EDUs); a small-scale system is intended to serve between two (2) and twenty-four (24) EDUs.

COMPREHENSIVE PLAN – The most recently adopted version of the Official Comprehensive Plan, West Pennsboro Township, Cumberland County, PA, including any amendments.

CONDITIONAL USE – A Use conditionally permitted in a particular Zoning District under this Ordinance that may be undertaken only following the approval by the Board of Supervisors and the subsequent issuance of a Zoning Permit by the Zoning Officer pursuant to standards and criteria established in this Ordinance.

CONDOMINIUM – Real estate, portions of which is designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those separate portions, in accordance with the Pennsylvania Uniform Condominium Act 1980-82, as amended.

CONSERVATION DESIGN – A method of subdivision design as described in Section 4.05 of this Ordinance.

CONSERVATION SUBDIVISION – A form of residential development where Lot sizes are reduced below those required in the underlying zoning district in which the development is located in return for the provision of permanent Open Space and the conservation of environmentally sensitive areas.

CONSISTENCY – An agreement or correspondence between matters being compared which denotes a reasonable, rational, similar connection or relationship.

CONSTRUCTION – The erection or installation of a new Building, Structure, or object, as well as modifications or improvements to existing Buildings, Structures, or objects.

CONTIGUOUS TRACT/PARCEL, OR LOT – All portions of one operational unit as described in the deed or deeds, whether or not the portions are divided by streams, public roads or bridges and whether or not the portions are described as multiple tax parcels, tracts, subparts or other property identifiers. The term includes supportive lands, such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams.

COOP – A Structure, either portable or permanent, to shelter poultry.

DECISION – A final adjudication of any board or other body granted jurisdiction under this Ordinance do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from Determinations. All Decisions shall be appealable to the Court of Common Pleas of Cumberland County and applicable judicial district wherein the Township lies.

DEMOLITION OR DEMOLISH – The removal or destruction of all or part of a Building or Structure. Demolition includes, but is not limited to:

1. Permanent removal of any portion of any structural element such as a Roof or exterior wall, or any significant Building elements such as cornices, doors, windows, doorways, porches, or chimneys.

2. Permanently covering or obscuring any portion of any Roof or exterior wall, or any significant exterior Building elements.

3. Removing all or part of a Building or Structure that has been damaged by a fire, flood, or other disaster.

DENSITY, NET – The number of Dwelling Units permitted in relation to the land area actually in use or proposed to be used for residential purposes, exclusive of public and/or private Streets and attendant Rights-of-Way.

DETERMINATION – Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

1. the Governing Body; or

2. the Zoning Hearing Board.

Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

DEVELOPER – Any landowner, agent of such landowner or tenant with permission of such Landowner, who makes or causes to be made a Development as defined herein (see DEVELOPMENT).

DEVELOPMENT – Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; Streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

DIAMETER AT BREAST HEIGH (DBH) – The measurement of the tree in inches, specifically four (4) feet six (6) inches above natural grade on the uphill side of the tree. In the case of trees

with multiple trunks, the diameter of all stems (trunks) at breast height shall be combined to calculate the diameter at breast height of the tree.

DIRECT LIGHT GLARE – Illumination beyond property lines caused by direct or specularly reflected rays from incandescent, fluorescent, or arc lighting, or from such high temperature process as welding or petroleum or metallurgical refining.

DISABILITY – A physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

DOMESTICATED ANIMAL – An animal, as the horse or cat, that has been tamed and kept by humans as a work animal, food source, or pet, especially a member of those species that have, through selective breeding, become notably different from their wild ancestors..

DRIVEWAY – An improved Cartway designed and constructed to provide vehicular movement between a public road and a tract of land serving one single-family dwelling unit or a farm. (See also DRIVEWAY, JOINT USE).

DRIVEWAY, JOINT USE – A common driveway that serves up to four (4) adjoining dwellings as authorized in of this Ordinance.

DROP LOT – A designated area where truck trailers can be temporarily stored, typically for later pickup by another driver, or for loading or unloading at the shipper's convenience.

DUMPSTER – Roll-off container, Compactor, or other large refuse container that is placed on and removed from a Person's Premises with mechanical equipment and used for the collection of solid waste.

DWELLING, FRONT FACADE - The plane of the facade of the Building closest to the Street Right-of-Way, excluding stoops, porticos, open colonnades, and open porches.

EARTHMOVING ACTIVITY – Any construction or other activity which disturbs the surface of the land including, but not limited to, excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth, excluding the tilling of the soil.

EASEMENT – A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

EAVELINE – Lower edges of a roof that overhang a Building's exterior walls.

ELECTRIC VEHICLE – Any vehicle that operates in any way on electrical energy which includes but is not limited to the following:

1. A battery Electric Vehicle.
2. A plug-in hybrid Electric Vehicle.
3. A neighborhood Electric Vehicle.
4. A medium-speed Electric Vehicle.

ELECTRIC VEHICLE CHARGING SPACE – An off-street parking space designated for an Electric Vehicle to park while charging.

ELECTRIC VEHICLE MAKE READY – Infrastructure that will support the future installation of an Electric Vehicle Charging Station.

ENVIRONMENTALLY SENSITIVE AREAS – An area on a development site with one or more of the following characteristics:

1. Any area of archeological significance as defined by the Pennsylvania Archaeological Site Survey;

2. Any Building, Structure, object, district, place, site or area significant in the history, architecture, maritime heritage, archaeology or culture of the Commonwealth of Pennsylvania as defined by the Pennsylvania Historical and Museum Commission;

2. Habitats of endangered species or threatened species as designated by applicable Laws, including Environmental Laws

3. Any floodplain or other Special Flood Hazard Area as defined by FEMA;

4. Soils determined by the United States Department of Agriculture defined as being highly erodible and/or having a high water table; and

5. Wetlands and surface waters as defined by Title 25 Chapter 93 of the PA Code including surface waters of exceptional ecological significance and exceptional recreational significance.

EPA – United States Environmental Protection Agency.

EQUINE – Relating to or affecting horses or other members of the horse family.

EQUIPMENT COMPOUND – An area surrounding or adjacent to a wireless support Structure within which base stations, power supplies, or accessory equipment are located.

EST – Abbreviation for Eastern Standard Time and the prevailing time for West Pennsboro Township. Easter Standard Time is five (5) hours behind Greenwich Mean Time.

EXISTING LAND USE – The use of a property as of the date this Ordinance was adopted.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION –A manufactured home park or subdivision for which the construction of facilities for servicing the Lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of Streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION – The expansion to an existing manufactured home park or subdivision – the preparation of additional sites by the construction of facilities for servicing the Lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of Streets, and either final site grading or the pouring of concrete pads).

FAA – Federal Aviation Administration.

FAÇADE – The face of a Building, especially the principal front that looks onto a Street or Open Space.

FAMILY – An individual or two or more persons related by blood, foster relationship, marriage, or adoption and up to one (1) unrelated person; or up to four (4) unrelated individuals living and cooking together as a single housekeeping unit with single cooking facilities and shared utility services. Buildings with more than one (1) set of cooking facilities are presumed to contain multiple dwelling units unless it can be shown the additional cooking facilities are clearly accessory, such as an outdoor grill. Shared utility services mean the Dwelling Units is served by one electric meter, one gas line, and/or one sewer line. A roomer, boarder or lodger shall not be considered a member of the family. This definition shall not be construed to include persons occupying Community Residences, Rooming Houses, Boarding Houses, Bed and Breakfast establishments, Hotels, Motels, Fraternities, Sororities, Short-term Rentals, or other similar lodgings.

FCC – Federal Communications Commission.

FEMA – Federal Emergency Management Agency.

FENCE – A structure designed as a barrier to restrict the movement or view of persons, animals, property, and/or vehicles. This definition shall not include ornamental fence treatments that are located in the front yard and extend less than one-half the width and/or depth of the front yard.

FINISHED GRADE – The proposed elevation of the land surface of a site after completion of all site preparation work.

FLOOD – A general and temporary condition of partial or complete inundation of normally dry land areas from the overland flow of watercourses, or from the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD FRINGE – That portion of the Floodplain outside the Floodway (See FLOODPLAY and FLOODWAY).

FLOOD HAZARD BOUNDARY MAP (FHBM) – Official map of a community issued by FEMA, where the boundaries of the Flood, mudflow and related erosion areas having special hazards have been designated (See FLOOD).

FLOOD INSURANCE RATE MAP (FIRM) – Official map of a community on which FEMA has delineated the Special Flood Hazard Areas (SFHA's), the Base Flood Elevations (BFE's) and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) – The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

FLOOD, FIVE-HUNDRED-YEAR – A flood which is likely to be equaled or exceeded once every five hundred (500) years [i.e., that has a 1/5 of 1% chance of being equaled or exceeded in any given year]. A study for the National Flood Insurance Program, the United States Army Corps of Engineers, the United States Department of Agriculture's Soil Conservation Service, the United States Geological Survey, the Susquehanna River Basin Commission, or a licensed

professional registered by the Commonwealth of Pennsylvania to perform such a study is necessary to define this flood.

FLOOD, ONE-HUNDRED-YEAR (BASE FLOOD) – A flood which is likely to be equaled or exceeded once every one hundred (100) years [i.e., that has a one percent (1%) chance of being equaled or exceeded in any given year]. A study for the National Flood Insurance Program, the United States Army Corps of Engineers, the United States Department of Agriculture's Soil Conservation Service, the United States Geological Survey, the Susquehanna River Basin Commission, or a licensed professional registered by the Commonwealth of Pennsylvania to perform such a study is necessary to define this flood.

FLOODPLAIN – An area of land adjacent to the channel of a watercourse which has been or is likely to be flooded, or any area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPLAIN AREA – A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

FLOODPROOFING – Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY – The areas identified as floodway in the Flood Insurance Study prepared by the FEMA. The term shall also include floodway areas which have been identified in the other available studies or sources of information for those floodplain areas where no floodway has been identified in the FLOOD INSURANCE STUDY.

FLOODWAY FRINGE – Those portions of land within the Floodplain Overlay (FPO) District subject to inundations by the one-hundred-year flood, beyond the floodway in areas where detailed study and profiles are available.

FLOOR AREA, GROSS – See GROSS FLOOR AREA (GFA).

FLOOR AREA, GROSS LEASABLE – The total floor area designed for occupancy by an Owner or tenant, as measured to the center of interior joint walls and the exterior of outside walls.

FOOD PROCESSING RESIDUAL (FPR) – An incidental organic material generated by processing agricultural commodities for human or animal consumption. The term includes food residuals, food coproducts, food processing wastes, food processing sludges, or any other incidental material whose characteristics are derived from processing agricultural products. Examples include: process wastewater from cleaning slaughter areas, rinsing carcasses, or conveying food materials; process wastewater treatment sludges; blood; bone; fruit and vegetable peels; seeds; shells; pits; cheese whey; off-specification food products; hides; hair; and feathers.

FOOT CANDLE – A measure of illumination produced by one (1) candle, at a distance of one (1) foot on a one (1) square foot area.

FRACTURE TRACE – Natural, linear-drainage, soil-tonal and topographic alignments, usually visible on aerial photographs, which are commonly the surface manifestations of corresponding zones of fracture concentration within underlying bedrock. Particularly in soluble rocks (e.g., limestone and dolomite), fracture zones cause increased bedrock porosity and permeability, resulting in rates of groundwater movement that are greater than the surrounding bedrock.

FREEBOARD – The vertical difference between the crest of an embankment or drainage structure and the design water surface.

FRONTAGE – The linear measurement taken along a property's common boundary with an adjoining Street Right-of-Way, other than that of a limited access highway.

FRONTAGE BUILDOUT – The percentage of the property width that is occupied by the Building facade within the front yard.

FRONTAGE, STREET – The side or sides of a Lot abutting on a public Street or Right-of-Way.

GARAGE, FRONT LOADED - A garage having its vehicular entry door facing the Street.

GARAGE, REAR LOADED - A garage having its vehicular entry door facing an Alley or rear lane.

GARAGE, SIDE LOADED - A garage having its vehicular entry door facing the side yard.

GOVERNING BODY – The Board of Supervisors of West Pennsboro Township, Cumberland County, Pennsylvania.

GRADE (ADJACENT GROUND ELEVATION) – The lowest point of elevation of the finished surface, paving or sidewalk within the area between the Building and the property line. When the property line is more than five (5) feet from the Building, the Grade shall be the lowest point of elevation between the Building and a line five (5) feet from the Building.

GREENWAY – A greenway may be any one or combination of the following: (1) a linear open space established along either a natural corridor, such as a riverfront, stream valley or ridgeline, or over land along a railroad Right-of-Way converted to recreational use, a canal, a scenic road, or other route; (2) a natural or landscaped course for pedestrian or bicycle passage; (3) an open space connector linking parks, natural reserves, cultural features or historic sites with each other and with populated areas; and (4) strip or linear parks designated as a parkway or greenbelt.

GROSS BUILDING AREA – The total area of a building available for construction or use, as measured from the exterior walls or the building. The gross building area shall be used in computing all square footage measurements for buildings as well as dimension requirements.

GROSS FLOOR AREA (GFA) – The total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the center line of party walls dividing the Building from another Building, of all floors above the average level of finished ground adjoining the Building at its exterior walls.

GROSS LAND AREA – The total square footage or acreage of a parcel of land prior to subdivision, development, or offer of or acceptance of dedication of land area for access drainage and/or public utility easements and/or Rights-of-Way.

GROSS TRACT AREA – The total amount of land contained within the limits of the legally described property lines bounding the tract.

GROUNDWATER – Water that occurs in the subsurface and fills or saturates the porous openings, fractures, and fissures of underground soils and rock units.

HABITABLE FLOOR AREA – The aggregate of the horizontal area of all rooms used for habitation, such as living room, dining room, kitchen, bedroom, but not including hallways, stairways, cellars, attics, service rooms or utility rooms, bathroom, closets, nor unheated areas such as enclosed porches, nor rooms without at least one window or skylight opening onto an outside yard or court. At least one-half of the floor area of every habitable room shall have a ceiling Height of not less than seven (7') feet and the floor area of that part of any room where the ceiling Height is less than five (5') feet shall not be considered as part of the habitable floor area.

HAZARDOUS MATERIAL – Substances or materials which, because of their chemical, physical, or biological nature, pose a potential risk to life, health, or property if they are released. A "release" may occur by use, spilling, leaking, emitting toxic vapors, or any other process that enables the material to escape its container, enter the environment, and create a potential hazard. The separate and authoritative definitions are in the U.S. OSHA, U.S. EPA, U.S. Nuclear Regulatory Commission (NRC), and U.S. DOT regulations. These agencies and their state counterparts provide the authoritative definitions of hazardous wastes, radioactive materials, and related definitions.

HEARING – An administrative proceeding conducted by a board pursuant to Section 909.1 of the Pennsylvania Municipalities Planning Code.

HEAT – For the purpose of this Ordinance, heat is defined as thermal energy of a radioactive, conductive, or convective nature. Heat emitted at any or all points shall not at any time cause a temperature increase on any adjacent property in excess of ten (10) degrees F. whether such change be in the air or in the ground, in a natural stream or lake, or in any Structure on such adjacent property.

HEIGHT, BUILDING – See BUILDING HEIGHT.

HEIGHT, WIRELESS COMMUNICATIONS FACILITY – The distance measured from the pre-existing grade level to the highest point on the Wireless Communication Facility, even if said highest point is an antenna or lightning protection device.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a Structure.

HISTORIC RESOURCE, HISTORIC STRUCTURE, or HISTORICALLY SIGNIFICANT SITE- Any Structure or site that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a County or local inventory of historic places in communities with historic preservation programs that have been certified either:

   a. By an approved State program as determined by the Secretary of the Interior; or

   b. Directly by the Secretary of the Interior in states without an approved program.

5. Individually listed on the most recent inventory of the Cumberland County Historical Society Register or the Cumberland County Planning Commission inventory.

HIVE – Any frame hive, box hive, box, barrel, log, gum, skep or other receptacle or container, natural or artificial, or any part thereof, which may be used or employed as a domicile for bees.

HOMEOWNERS ASSOCIATION – A community association, which is, organized in a development in which individual owners share common interests in open space or facilities.

HOUSEHOLD LIVING – Household living means the use of one or more Dwelling Units located within the Principal Structure of a Lot by a household, in which the units may or may not share a common wall with the adjacent unit or have individual entrances from the outside. Nothing in this Article shall be deemed to limit the ability of lawful occupants of a Dwelling Unit to have bona fide guests.

IDENTIFIED FLOODPLAIN AREA – This term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study but may include additional areas identified by the community. See Section 2.12(E) of this Ordinance for the specifics on what areas the community has included in the Identified Floodplain Area.

IMPERMEABLE – Impervious, impenetrable to moisture.

IMPERVIOUS (AREA) COVERAGE – The ratio of the total area on a Lot which is in Impervious Cover, divided by the total area of the Lot, expressed as a percentage. For the purpose of this definition, Impervious Coverage on a Lot encompasses all Impervious Cover plus the entire Building area, including Roof overhangs, cornices, eaves, and gutter.

IMPERVIOUS COVER/SURFACE – A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Includes, but is not limited to, rooftops, parking Lots, graveled areas, driveways, Buildings, Streets, roads, decks, swimming pools and any concrete or asphalt. Impervious cover does not include Pervious Surfaces as defined herein (see PERVIOUS SURFACE).

INDIRECT LIGHT GLARE – Illumination beyond property lines caused by diffuse reflection from a surface such as a wall or roof of a Structure.

INFILTRATION – Movement of surface water into the soil, where it is absorbed by plant roots, evaporated into the atmosphere, or percolates downward to recharge ground water.

INTEGRATED PESTICIDE MANAGEMENT PLAN – A plan that provides for the use of multiple pest management tactics that minimize the risk of undesirable environmental and health effects.

INVASIVE PLANT SPECIES – Predominantly non-native tree, shrub, vine, or herbaceous species that grow or reproduce aggressively, usually because they have few or no natural predators, and which can so dominate that they out-compete many native plant species. Invasive plant species in Pennsylvania are listed on an inventory, as developed and updated from time to time by the Pennsylvania Department of Conservation of Natural Resources.

JUNK – Items or objects that are old, discarded, or not currently being used for the purpose or purposes for which they are designed or normally used, including but not limited to used or salvaged metals and their compounds or combination; used or salvaged rope; rubber; rotting wood; scrap iron; tires and snowmobile treads; parts for motor vehicles, boats, all-terrain vehicles, recreational vehicles, snowmobiles, and/or trailers; inoperable or dismantled refrigerators, stoves, dishwashers, dryers, washing machines, and furniture; and inoperable or dismantled lawn mowers, weed trimmers, snow blowers, snow plows, tractors, and any other machinery used for excavation, maintenance, or snow removal.

JUNKED MATERIALS – The accumulation of used and/or discarded materials with the potential for leaching pollutants into the groundwater, including, but not limited to, trash, appliances, machinery, vehicles, or parts thereof, whether on the land surface, into a sinkhole or into a stream, wetland or other water body.

KARST – A type of topography characterized by closed depressions and/or sinkholes, caves, rock pinnacles, fracture traces, and underground drainage, resulting from solution of limestone and dolomite bedrock.

LAND DEVELOPMENT – Any of the following activities:

1.. The improvement of one (1) Lot or two (2) or more contiguous Lots, tracts, or parcels of land for any purpose involving:

a. A group of two (2) or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential Building on a Lot or Lots regardless of the number of occupants or tenure; or

b. The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of or for the purpose of Streets, common areas, leaseholds, condominiums, Building groups, or other features.

2. A Subdivision of land.

Excluded from this definition of land development are the following:

1. The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium;

2. The addition of an accessory Building, including farm buildings, on a Lot or Lots subordinate to an existing principal Building; or

3. The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subclause, an amusement park is defined as a tract or area used principally as the location for permanent amusement structures or rides. This exclusion shall not apply to newly

acquired acreage by an amusement park until initial plans for the expanded area have been approved by proper authorities.

LAND DISTURBANCE - Any activity, which exposes soils, alters topography and/or alters woody vegetation, except for removal of a safety hazard, diseased trees, or invasive plant species.

LANDOWNER – The legal or beneficial Owner(s) of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land, shall be deemed to be a landowner for the purposes of this Ordinance.

LANDSCAPING – The planting of turf, trees, shrubs, and other appropriate vegetative materials and ground cover within the open areas of a Lot other than for agricultural purposes, and including the maintenance and replacement thereof, for the purposes of erosion control, retention of precipitation, protection against the elements and promotion of human comfort and welfare.

LIGHT EMITTING DIODE (LED) – A semiconductor device that emits light when current flows through it.

LIVESTOCK – Those class of animals that are customarily kept and housed outside the home or in enclosures such as pens, barns, corrals or paddock areas. Livestock includes, but is not limited to, horses, cattle (beef and dairy), llamas, mules, swine, sheep, goats, poultry, and fowl. Animals customarily considered to be domesticated such as dogs, cats and other small pets are not considered Livestock under this Ordinance.

LOADING SPACE – An off-street area provided for the loading or unloading of goods and/or materials that has direct usable access to a use's loading docks and/or doors and is connected to a street or alley by an access drive. This definition shall also expressly include any area that directly adjoins the loading docks and/or doors that is necessary for the vehicles to maneuver into place with the use's loading docks and/or doors. This definition shall not include the access drives on the site that do not directly adjoin the loading docks and/or doors unless they require vehicles to move in a reverse direction to negotiate access to and from the loading docks and/or doors.

LOT – Any parcel or tract of land intended as a single unit for purposes of ownership, transfer of ownership, use, rent, improvement or development. The word "lot" includes the word "plot," "parcel" or "tract." Contiguous nonconforming lots of record under single ownership shall be considered one lot for the purposes of this Ordinance. A lot as herein defined may or may not coincide with a LOT OF RECORD as defined herein. Lot types include the following and as illustrated in Figure 6.07, Lot Types.

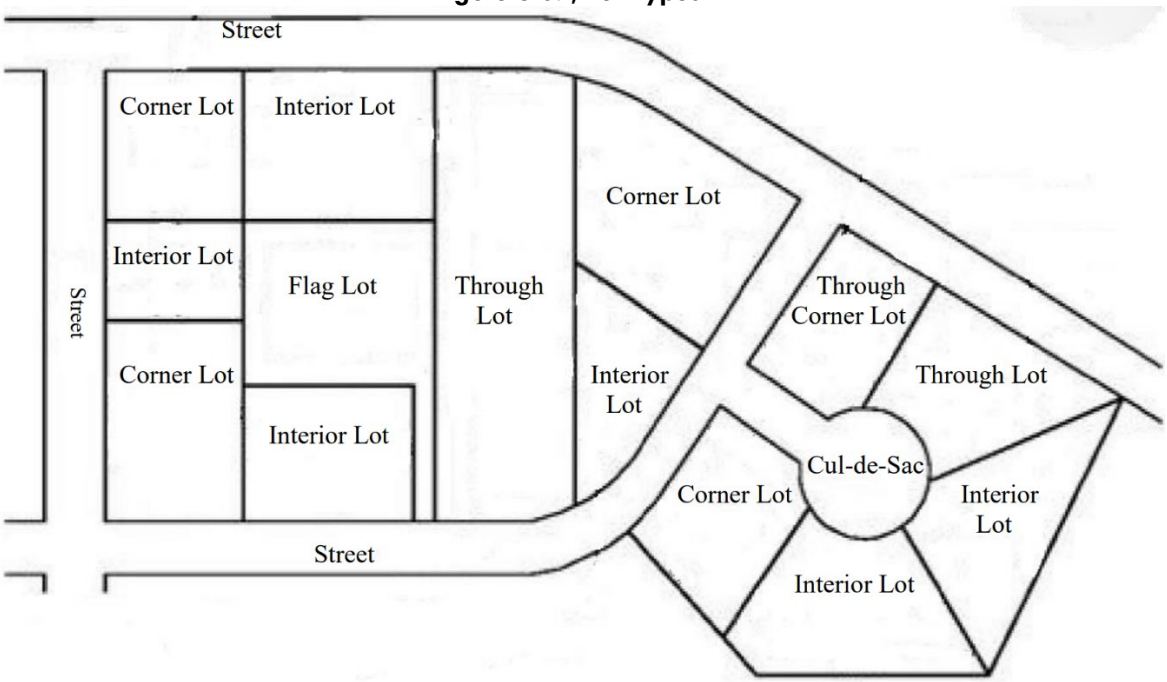
Corner Lot – A Lot at the junction of and abutting on two (2) or more intersecting Streets or private roads or at the point of abrupt change of a single Street or private road, where the interior angle is less than one hundred and thirty-five (135) degrees and the radius of the Street or private road line is less than one hundred (100) feet.

Flag Lot – A Lot that does not fulfill the minimum street frontage requirement for the respective zoning district, but that does have sufficient Lot width away from the Lot's street frontage, and is configured so that access to the public street is by a narrow staff portion containing a private driveway accessing a Building site.

Interior Lot. – A Lot other than a Corner Lot with only one frontage on a Street other than an Alley.

Through Lot – A Lot other than a Corner Lot with frontage on more than one Street other than an Alley. Through Lots with frontage on two Streets may be referred to as double frontage Lots.

Figure 6.07, Lot Types



LOT AREA – The area contained within the property lines of individual parcels of land, excluding any area within a Street Right-of-Way, but including the area of any easement.

LOT COVERAGE – Expressed as a percentage of the Lot which is covered with impervious surfaces, including Buildings, driveways, parking area, sidewalks or any other "non-green" cover, including semi-impervious or porous pavement materials.

LOT DEPTH – The horizontal distance measured between the Street Right-of-Way line and the rear property line. On corner Lots, reverse frontage Lots, and triangular or other irregularly shaped Lots, the depth shall be measured along the property line adjacent to the side yard which extends from the Street of address to the opposite property line. Where a rear yard is formed by angled or offset property lines, the Lot depth shall be measured as the weighted average distance from the Street Right-of-Way line to the farthest rear property line.

LOT FRONTAGE – See FRONTAGE.

LOT LINE – The boundary lines of a lot as defined herein.

1. *Front Lot Line* – The lot line separating a lot from a street Right-of-Way. In the case of a corner lot or a lot abutting a street Right-of-Way on more than one side, there shall be two front lot lines.

2. *Rear Lot Line* – The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. A corner lot shall have 2 front lines, and two side lot lines.

3. *Side Lot Line* – Any lot line other than a front or rear lot line. A corner lot shall have 2 front lines, and two side lot lines.

LOT OF RECORD – A Lot identified on a subdivision plan or on a deed or other instrument of conveyance recorded in the Office of the Recorder of Deeds in and for Cumberland County, Pennsylvania.

LOT, DOUBLE FRONTAGE – A Through Lot that fronts upon two parallel Streets or that fronts upon two Streets that do not intersect at the boundaries of the Lot (See Figure 6.02).

LOT, MINIMUM WIDTH – See LOT FRONTAGE.

LOT, REVERSE FRONTAGE – A Lot extending between and having frontage on an Minor Arterial or Collector Street, and with vehicular access solely from the latter.

LOT WIDTH – The horizontal distance measured between side property lines. On corner lots, lot width shall be measured between the Right-of-Way line for the non-address street and the directly opposite property line. Unless otherwise noted, lot width shall be measured at the Building setback line.

LOWEST FLOOR – The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, Building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a Building, provided that such space is not designed and built so that the Structure is in violation of the applicable non¬-elevation design requirements of this Ordinance.

MAINTENANCE AND REPAIR – Work that does not alter the appearance or harm the stability of exterior features of a Building.

MAJOR COMMERCIAL VEHICLE – Those vehicles not normally and customarily associated with or adaptable to passenger use, such as tractor-trailer trucks or bulldozers.

MAJOR RECREATIONAL EQUIPMENT – Includes boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, converted school buses, tent trailers and the like, in cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

MANUFACTURE – A function involving either the processing or production of materials, goods, or products.

MANUFACTURED HOME/HOUSING PARK – A parcel or contiguous parcels of land which have been so designated and improved to contain two or more manufactured housing Lots for the placement thereon of manufactured houses.

MANUFACTURED HOUSING – A Structure manufactured after 1975, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. The term shall include any Structure which meets all the requirements of this definition with respect to which the manufacturer voluntarily files a certification required by the United States Department of Housing and Urban Development.

MANUFACTURED HOUSING LOT – A parcel of land in a manufactured housing park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single manufactured house.

MANURE – The fecal and urinary excrement of livestock and poultry, often containing some spilled feed, bedding or litter.

MANURE STORAGE FACILITY – A Structure or other improvement built to store manure for future use, or disposal. Types of storage facilities are as follows: underground storage, in ground storage, earthen bank, stacking area, and above-ground storage.

MASSAGE or MASSAGE THERAPY – The application of a system of structured touch, pressure, movement and holding to the soft tissue of the human body by a licensed Massage Therapist in which the primary intent is to enhance or restore health and wellbeing of the client The term includes the external application of water, heat, cold, lubricants or other topical preparations, and electromechanical devices which mimic or enhance the actions of the hands. The term does not include the diagnosis of illness or disease, medical procedures, chiropractic adjustment, electrical stimulation, ultrasound or prescription of medicines, for which a license to practice medicine, chiropractic, physical therapy, occupational therapy, podiatry or other practice of the healing arts is required.

MASSAGE THERAPIST – A Person who engages and administers massage or massage therapy.

MEDICAL MARIJUANA – Refers to using the whole unprocessed marijuana plant or its basic extracts to treat a disease or symptom.

MICRO WIRELESS FACILITY – A small wireless communications facility that:

(1) Does not exceed two cubic feet in volume; and

(2) Has an exterior antenna no longer than eleven (11) inches.

MINERAL RESOURCE – Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.

MINOR REPAIR – The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a

Structure affecting the exit way requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

MIXED-USE DEVELOPMENT – A land development project that provides more than one (1) use or purpose within a shared Building or development area. Mixed-use projects may include any combination of housing, office, retail, medical, recreational, commercial, or industrial components. Mixed-use projects may vary in scale from a single Building occupied by a retail shop on the ground floor with an upstairs apartment to a comprehensive "urban village" development with multiple buildings containing separate but compatible uses such as a retail center, office Building and medical clinic located adjacent to a multi-family housing complex.

MODIFICATION OR MODIFY – The improvement, upgrade, or expansion of existing wireless communications facilities or base stations on an existing wireless support Structure or the improvement, upgrade, or expansion of the wireless communications facilities located within an existing equipment compound, if the improvement, upgrade, expansion or replacement does not substantially change the physical dimensions of the wireless support Structure.

MODULAR (INDUSTRIALIZED) HOME – A home that is wholly or mostly made, constructed, fabricated or assembled in manufacturing facilities. These Structures are then shipped to the home site for assembly and installation. A modular home is designed only for installation on a site built permanent foundation and not to be moved after the installation.

MOTOR VEHICLE – A Vehicle that is self-propelled except an electric personal assistive mobility device or a Vehicle which is propelled solely by human power.

MUNICIPAL AUTHORITY – The West Pennsboro Township Municipal Authority, Cumberland County, Pennsylvania.

NATIVE SPECIES – A species of plant or other organism that currently or previously inhabited or grew in a specified location, and which was not introduced to that location as a result of human activity, either intentional or accidental. The term “native” species generally refers to a species whose range was located within a large area like a continent or a nation. The term “indigenous” species is typically used to refer to a species whose original range extended into a smaller area like a state, county, or watershed.

NEW CONSTRUCTION – Structures for which the start of construction commenced on or after the effective start date of this Ordinance and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION – A manufactured home park or subdivision for which the construction of facilities for servicing the Lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of Streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

NONCONFORMING LOT – A Lot, of which the area or dimension was lawful prior to the adoption or amendment of a zoning ordinance, but now fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

NONCONFORMING SIGN – A Sign that was legally erected and maintained at the effective date of this Ordinance, or amendment thereto, that does not currently comply with Sign regulations of the district in which it is located.

NONCONFORMING STRUCTURE OR BUILDING – A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in this Ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation.

NONCONFORMING USE – A Use, whether of land or of Structure, which does not comply with the applicable Use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such Use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

NONCONFORMITY, DIMENSIONAL – Any aspect of a land use that does not comply with any size, Height, bulk, setback, distance, landscaping, coverage, screening, or any other design or performance standard specified by this Ordinance, where such dimensional nonconformity lawfully existed prior to the adoption of this Ordinance or amendment thereto.

NORMAL AGRICULTURAL OPERATION – The activities, practices, equipment and procedures that farmers adopt, use or engage in the production and preparation for market of poultry, livestock and their products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities and is: (1) not less than ten contiguous acres in area; or (2) less than ten contiguous acres in area but has an anticipated yearly gross income of at least $10,000. The term includes new activities, practices, equipment, and procedures consistent with technological development within the agricultural industry. Use of equipment shall include machinery designed and used for agricultural operations, including, but not limited to, crop dryers, feed grinders, sawmills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing and those items of agricultural equipment and machinery defined by the act of December 12, 1994 (P.L. 944, No. 134), known as the Farm Safety and Occupational Health Act. Custom work shall be considered a normal farming practice.

NUTRIENT MANAGEMENT ACT – The PA Nutrient Management Act of 1993, which is applicable to agricultural operations with over 2,000 pounds of animal weight per acre which generate or utilize manure. The Act requires the development of a plan demonstrating that nutrients that are land applied do not exceed crop uptake.

OBSTRUCTION – Any Structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth by this Ordinance.

OFF-STREET PARKING – A temporary storage (surface or Structure) for a Motor Vehicle that is directly accessible to an access aisle and that is not located on a dedication RIGHT-OF-WAY, and is located upon the same lot as a principal use or, in the case of joint parking, within close proximity.

ON-LOT SEWER SERVICE – The disposal of sewage generated by a user on land by safe and healthful means, as approved by the Township On-Lot Management Ordinance.

ON-LOT WATER SERVICE – The provision of a safe, adequate and healthful supply of water to a user from a private well.

OPEN SPACE – A parcel or parcels of land or an area of water, or a combination of land and water, within a development site, designed and intended for the use and enjoyment by the residents of such development and possibly the general public. Open space shall be substantially free of structures, but may contain such improvements as are in the finally approved development plan, and shall not include individually owned private yards, except in the case of approved conservancy Lots. Open space is permanently restricted against further development. Open Space may be a combination of natural or naturalized areas plus more intensely managed areas (such as lawn, recreational areas or play fields).

OPEN SPACE DEVELOPMENT – Open space residential development is an enhanced variation on the cluster development technique where a substantial percentage of the site is dedicated to Open Space. The purpose of this more advanced technique is to preserve a substantial amount of land for conservation uses, while still allowing full-density development. See CLUSTER DEVELOPMENT.

OPEN SPACE, COMMON OR COMMON OPEN SPACE – A parcel or parcels of land or an area of water, including natural areas, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including Streets, off-street parking areas, and areas set aside for public facilities.

OWNER – Owner means the Person with legal title to real or personal property, a Building, or Structure.

PA DEP – The Department of Environmental Protection of the Commonwealth of Pennsylvania.

PARKING SPACE – An off-street space available for the parking of one (1) Motor Vehicle and having usable access to a street or alley.

PEDESTRIAN WALKWAY – A specified easement, walkway, path, sidewalk or other reservation which is designed and used exclusively by pedestrians.

PEN – A fenced area designed to contain the animal to a restricted area and prevent animals roaming at large.

PENNDOT – Pennsylvania Department of Transportation.

PENNSYLVANIA CONSTRUCTION CODE (PCC) ACT – Act of Nov. 10, 1999, P.L. 491, No. 45 as amended. The statewide Building code adopted by the Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial Buildings, the code adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference as the construction standard applicable with the Commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC such references shall be based on the most recently adopted editions thereof. Also see UNIFORM CONSTRUCTION CODE.

PENNSYLVANIA MUNICIPALITIES PLANNING CODE (MPC) – Act of 1968, P.L. 805, No. 247 as reenacted and amended.

PERSON – Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts,

unincorporated organizations, trustees, trustees in cases under title 11 of the United States Code, receivers, and fiduciaries.

PERSON WITH A DISABILTY – As defined by the Americans with Disabilities Act (ADA).

PERVIOUS SURFACE – A pervious surface is a surface that allows the percolation of water into the underlying soil. Pervious surfaces include grass, mulched groundcover, planted areas, vegetated roofs, permeable paving as well as porches and decks erected on pier foundations that maintain the covered Lot surface's water permeability. Pervious surfaces do not include any Structure or Building, any porch or deck that limits the covered Lot surface from absorbing water, or any outdoor stairs, on-grade surface sports court, swimming pool, artificial turf, sidewalk or patio constructed of concrete, asphalt, brick, compacted gravel or other material that impedes the infiltration of water directly into the subsurface of the Lot.

PLANNED COMMUNITY – Real estate with respect to which a person, by virtue of ownership of an interest in any portion of the real estate, is or may become obligated by covenant, easement or agreement imposed on the owner's interest to pay any amount for real property taxes, insurance, maintenance, repair, improvement, management, administration or regulation of any part of the real estate other than the portion or interest owned solely by the person. The term excludes a cooperative and a condominium, but a condominium or cooperative may be part of a planned community. For purposes of this definition, "ownership" includes holding a leasehold interest of more than twenty (20) years, including renewal options, in real estate. The term includes nonresidential campground communities.

PLANNING COMMISSION – The Planning Commission of West Pennsboro Township, Cumberland County, PA.

PORCH – A non-enclosed or semi-enclosed Roof covered Accessory Structure adjoining a first-floor entrance to a Building.

PREMISES – The property upon which the activity is conducted as determined by physical facts rather than property lines. It is the land occupied by the Buildings or other physical uses that are necessary or customarily incident to the activity, including such Open Spaces as are arranged and designed to be used in connection with such Buildings or uses.

PRESERVATION OR PROTECTION – When used in connection with natural and historic resources, shall include means to conserve and safeguard these resources from wasteful or destructive use but shall not be interpreted to authorize the unreasonable restriction of forestry, mining or other lawful uses of natural resources.

PRIME AGRICULTURAL LAND – Land used for agricultural purposes that contains soils of the first, second or third class, or is considered to be unique agricultural land, all as defined by the United States Department of Agriculture Natural Resource and Conservation Services County Soil Survey.

PRINCIPAL USE – The primary use of a Lot on which the a use located is conducted.

PRIVATE – Not publicly owned, operated, or controlled.

PRIVATE STREET/ROAD – A non-public Right-of-Way which provides vehicular access to two (2) or more lots.

PROFESSIONAL ENGINEER – An individual licensed and registered under the laws of the Commonwealth to engage in the practice of engineering. A professional engineer may not practice land surveying unless licensed as set forth in P.L. 534, No. 230, as amended; however, a professional engineer may perform engineering land surveys.

PROFESSIONAL LAND SURVEYOR – An individual licensed and registered under the laws of the Commonwealth of Pennsylvania to engage in the Practice of Land Surveying. A Professional Land Surveyor may perform engineering land surveys but may not practice any other branch of engineering.

PROPERTY OWNER – A Person that holds either legal or equitable title to the real estate as set forth on any deed, agreement of sale, or any other document recorded in the Office of the Recorder of Deeds for the applicable jurisdiction.

PUBLIC – Owned, operated, or both, by the Township, its authority, a municipal-supported fire company, or a municipal-supported ambulance association.

PUBLIC HEARING – A formal meeting held pursuant to public notice by the West Pennsboro Township Board of Supervisors or Zoning Hearing Board intended to inform and obtain public comment, prior to taking action in accordance with the Pennsylvania Municipalities Planning Code.

PUBLIC MEETING – A forum held pursuant to notice under 65 Pa.C.S. Ch. 7 (relating to open meetings.)

PUBLIC NOTICE – Notice published once each week for two (2) successive weeks in a newspaper of general circulation in West Pennsboro Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing. Public notice for rezoning, special exception, variance, or any combination thereof, requests shall also include the posting of a sign(s) at a conspicuous location(s) upon the site to notify potentially interested citizens; this sign(s) shall be posted at least one week prior to the hearing and will exhibit the nature, date, time and location of the hearing.

PUBLIC SEWER – A municipal sanitary sewer or a comparable common or package sanitary facility approved and permitted by the Pennsylvania Department of Environmental Protection.

PUBLIC STREET/ROAD – A Street ordained or maintained or dedicated and accepted by the Township, county, state or federal governments and open to public use.

PUBLIC WATER – A municipal water supply system, or a comparable common water facility approved and permitted by the Pennsylvania Department of Environmental Protection.

REAL ESTATE – Any fee, leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interests which by custom, usage or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. The term includes parcels with or without upper or lower boundaries and spaces that may be filled with air or water.

RECREATIONAL VEHICLE – A Vehicle built on a single chassis, not more than for hundred (400) square feet measured at the largest horizontal projections, designed to be self-propelled or permanently towable by a consumer-owned Vehicle, not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or

seasonal use that complies with all applicable Federal vehicle regulations and is certified by the manufacturer as complying with NFPA 1192 Standard on Recreational Vehicles or ANSI A119.5 Park Model Recreational Vehicle Standard and includes the following types:

1. Motor home.
2. Travel trailer.
3. Fifth wheel travel trailer.
4. Folding camping trailer.
5. Truck camper.
6. Park model RV.

REGISTERED DESIGN PROFESSIONAL – A professional engineer, land surveyor or professional geologist licensed by the State Registration Board for Professional Engineers, Land Surveyors and Geologists under the act of May 23, 1945 (P.L. 913, No. 367), known as the "Engineer, Land Surveyor and Geologist Registration Law, " a landscape architect who is licensed by the State Board of Landscape Architects under the act of January 24, 1966 (1965 P.L. 1527, No. 535), known as the "Landscape Architect's Registration Law, " or any corporation or association, including professional corporations, organized or registered under the act of December 21, 1988 (P.L. 1444, No.177), known as the "General Association Act of 1988," practicing engineering, landscape architecture or surveying in this Commonwealth.

REGULATORY FLOOD ELEVATION -- The base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1 ½) feet. The freeboard safety factor also applies to utilities and ductwork.

RENTALS – A procedure by which services or personal property are temporarily transferred to another Person for a specific time period for compensation.

REPAIR – A function involved in correcting deficiencies of products that affect its performance, appearance, or both.

REPLACEMENT OF A WIRELESS COMMUNICATIONS FACILITY (REPLACEMENT OF WCF) – The replacement of existing wireless communications facilities on an existing wireless support Structure or within an existing equipment compound due to maintenance, repair, or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight, and Height as the wireless communications facilities initially installed and that does not substantially change the physical dimensions of the existing wireless support Structure.

REPORT – Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such Report in the rendering of any Decision or Determination. All Reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body, or agency, nor shall any appeal lie therefrom. Any Report used, received or considered by the body, board, officer or agency rendering a Determination or Decision shall be made available for inspection to the Applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

RIGHTS-OF-WAY (ROW) – An area acquired or reserved for Streets, Street trees (or landscaping), drainage, utilities and pedestrian ways owned by a public or private Person. When used in the regulation of Wireless Telecommunications Facilities, the surface of and space above and below any real property in the Township in which the Township has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all Streets, highways, avenues, roads, Alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the Township, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for utility purposes, but excluding lands other than Streets that are owned by the Township. The phrase "in the right(s)-of-way" means in, on, over, along, above and/or under the right(s)-of-way.

RIPARIAN BUFFER – - A best management practice that is an area of permanent vegetation along surface waters that forms a transition area between the aquatic and terrestrial environment. A riparian buffer may consist of grasses and forbs only, or a combination of vegetation types to include grasses, forbs, shrubs and trees.

RIPARIAN FOREST BUFFER – A type of riparian buffer that consists of permanent vegetation that is predominantly native trees, shrubs and forbs along surface waters that is maintained in a natural state or sustainably managed to protect and enhance water quality, stabilize stream channels and banks, and separate land use activities from surface waters.

ROAD OR ROADWAY – See STREET.

ROLL-OFF DUMPSTER – A metal storage receptacle used primarily for the temporary storage or deposit of waste materials, including debris, trash or construction, renovation or demolition waste and which is transportable such as to be delivered by, rolled off of, and picked up by a carrying vehicle that allows for the disposal and removal of its contents to a dump site. The term does not include dumpsters which are permanently placed for the collection of normal household trash, such as at commercial locations or apartment complexes.

ROOF – An Impervious Cover of a Building.

SAFETY FAN – An area on a Shooting Range Facility designed to contain all projectiles fired from a shooting range. The Safety Fan consists of three parts: the direct fire zone, the safety zone, and the ricochet zone. The direct fire zone is that area into which all shots are fired during the normal course of shooting.

SCREEN BUFFER OR VISUAL SCREEN – A well-maintained hedge, landscaped berm, or other vegetative materials which upon planting or installation is both of sufficient height and of sufficient density to conceal from the view of adjacent properties the structures and uses on the premise where the screening is located.

SEASONAL RESIDENCE – A dwelling, cabin, lodge or summer house which is intended for occupancy less than one hundred eighty-two (182) days of the year.

SETBACK – The minimum required horizontal distance between a setback line and a property or Street Right-of-Way line.

SETBACK LINE – A line parallel to the front, side or rear Lot line so as to provide the required yards. See Figure 6.02, Building Coverage.

SETBACK, FRONT – The minimum distance between the Street line and the Building setback line projected the full width of the Lot. Commonly, called "required front yard".

SETBACK, REAR – The minimum distance between the rear Lot line and the rear setback line projected the full width of the Lot. Commonly called "required rear yard".

SETBACK, SIDE – The minimum distance between the side Lot line and the side setback line projected from the front yard to the rear yard. Commonly called "required side yard".

SIGHT DISTANCE – The length of roadway visible to the driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic.

SIGN – Any device, Structure, fixture, painting, emblem, or visual that uses words, graphics, colors, illumination, symbols, numbers, or letters for the purpose of communicating a message. A Sign shall include the support Structure by which it is attached to or displayed upon the ground, a Building, or another Structure. Sign area shall be defined and determined in accordance with Article 5 of this Ordinance. Sign types include, but are not limited to the following:

1. *Billboard*. A Off-Premise Sign upon which images and/or messages of any kind are printed, posted, or lettered, whether freestanding or attached to a surface of a Building or other Structure. A billboard is used to advertise products, services or businesses or to disseminate messages at a location other than the premises on which the Sign is placed.

2. *Changeable Sign*.A type of sign that is designed so that its characters, letters, illustrations or other content can be changed, altered or rearranged without physically altering the permanent physical face or surface of the sign. This sign type includes Bulletin Boards permitted in accordance with Section 5.07(P) of this Ordinance, Retail Fuel Sales Signs permitted in accordance with Section 5.10 of this Ordinance, manual, electrical, Electronic Messaging Center (EMC) Sign, Light Emitting Diode (LED) or other variable message signs. Section 5.11 of this Ordinance provides additional regulations for Changeable Signs.

3. *Electronic Message Center (EMC) Signs*: A Sign that is capable of displaying words, symbols, figures or images that can be electronically changed by remote or automatic means.

4. *Flat Wall Sign*. A Sign that is displayed and/or mounted upon or generally parallel to the same plane as the face of a wall, such that no portion of the Sign extends more than twelve (12) inches from said wall.

5. *Freestanding Sign*. A Sign erected upon a permanently affixed, independent Structure (legs or base). Freestanding signs shall include pole signs that are attached to the ground or other Structure by means of a pole or poles supporting the Sign and monument signs that sit upon or are attached directly to the ground.

6. *Off-Premise Sign*. An Outdoor Advertising Sign whose message directs attention to a specific business, product, service, event or activity, or other commercial or noncommercial activity, or contains a non-commercial message about something that is not sold, produced, manufactured, furnished, or conducted on the Premises upon which the Sign is located.

7. *On-Premise Sign*. A Sign whose message and design relate to an individual business, profession, product, service, event, point of view, or other commercial or non-commercial activity sold, offered, or conducted on the same property where the Sign is located.

8. *Permanent Sign*. A Sign that is expected to be continuously displayed during the presence of a principal land use.

9. *Snipe Sign*. A Sign tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, public benches, streetlights, or other objects, or placed on any public property or in the public Right-of-Way or on any private property without the permission of the property Owner.

10. *Temporary Sign*. A Sign that is only allowed for specified periods of time, associated with some temporary event or work, conducted on the site.

11. *Under Canopy Sign*. A Sign that identifies one (1) leasable unit within a premises and is hung from an overhead canopy of the premises.

12. *Wall Projecting Sign*. A Sign that is mounted to a Building wall such that its principal display area is not parallel to the Building wall. A wall projecting Sign can also be attached to a marquee.

For the purposes of this Ordinance, Signs, shall not include the following:

13. Flags and insignias of any governmental agency or civic, charitable, religious, fraternal, or similar organization.

14. Legal notices identification, informational, or directional signs erected or required by governmental bodies.

15. Signs which are solely devoted to prohibiting trespassing, hunting, or fishing.

SIGN, ABADONED – Shall mean the following:

1. A Sign which has remained without true advertising for a period of six (6) months, and for which the Sign owner has not made application for a current permit as provided hereinbelow, or which is without a current lease or license from the landowner, or as to which the Sign owner has ceased to attempt to lease the advertising space; or

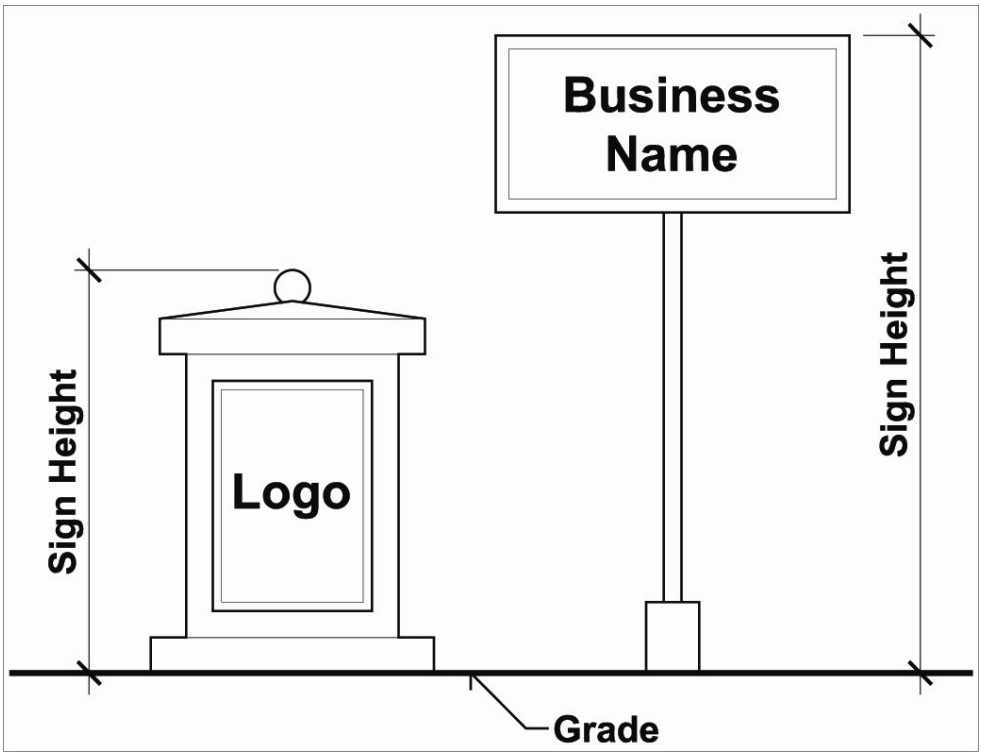
2. A Sign which requires maintenance or repair in excess of twenty-five percent (25%) of the replacement cost of the Sign as determined by the Zoning Officer after consultation with the Sign owner if said owner can be identified from the permit previously issued for such Sign.

SIGN AREA – The total dimensions of a Sign surface used to display information, messages, advertising, logos, or symbols.

SIGN FACE – The part of the Sign that is or can be used for the Sign area. The Sign area could be smaller than the Sign Face.

SIGN HEIGHT – Shall be measured as the distance from the highest portion of the Sign to the mean finished grade of the Street closest to the Sign. See Figure 6.08.

Figure 6.08, Sign Height Measurement



SIGN MODIFICATION – An alteration to any element of a Sign, including the Sign Area, Sign Face, Sign Height, Sign Supporting Structure, or the painting, emblem, or visual elements that uses words, graphics, colors, illumination, symbols, numbers, or letters for the purpose of communicating a message.

SIGN SUPPORTING STRUCTURE – Poles, posts, walls, frames, brackets, or other supports holding a Sign in place.

SIGNIFICANT BUILDING OR STRUCTURE – Means any Building or Structure within the Township that:

1. Is listed on, or is within an area listed on, the National Register of Historic Places, or which is the subject of a pending application for listing on the National Register,

   OR

2. Is at least fifty (50) years old, or if it has been determined by The Township Board of Supervisors to be a significant Building or Structure after a finding that the Building or Structure is either:

   (a) Importantly associated with one or more Historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the Township or the Commonwealth of Pennsylvania, or

   (b) Historically or architecturally significant (in terms of period, style, method of Building construction, or association with a reputed architect or builder) either by itself or in the context of a group of Buildings or Structures, and

therefore it is in the public interest to be preserved or rehabilitated rather than to be demolished.

SINGLE AND SEPARATE OWNERSHIP – The ownership of a Lot by one or more persons, which ownership is separate and distinct from that of any abutting or adjoining Lot. Ownership shall be considered separate and distinct where Lots have been separately described as such, by metes and bounds, in a recorded deed or conveyance prior to the enactment of this Ordinance, or an amendment thereto, and have continued since that date to be so separately described in all subsequent recorded deeds of conveyance.

SINKHOLE – A closed, generally circular, depression in the land surface of variable depth and width, characterized by a distinct breaking of the ground surface, and formed by solution of carbonate bedrock and downward movement of soil into bedrock voids or by collapse of underlying caves.

SLOPE – The change in elevation over the horizontal distance between consecutive contour lines. Slope shall be measured over three (3) consecutive 2- foot contour intervals [six (6) cumulative vertical feet of slope]. All slope measurements shall be determined by a topographic survey signed and sealed by a Professional Engineer or a Professional Land Surveyor.

SMALL WIRELESS COMMUNICATIONS FACILITY – A wireless communications facility that meets the following criteria:

1. The wireless support Structure on which antenna facilities are mounted and:

   (a) Is fifty (50) feet or less in Height, or

   (b) Is no more than ten (10) percent taller than other adjacent structures, or

   (c) Is not extended to a Height of more than fifty (50) feet or by more than ten (10) percent above its pre-existing Height as a result of the Collocation of new Antenna facilities; and

2. Each Antenna associated with the deployment (excluding the accessory equipment) is no more than three cubic feet in volume; and
3. All accessory equipment associated with the wireless support Structure (excluding antennas) is cumulatively no more than 28 cubic feet in volume.

4. The wireless communications facility does not require antenna Structure registration under 47 CFR Section 17;

5. The wireless communications facility is not located on Tribal lands, as defined under 36 CFR 800.16(x); and

6. The wireless communications facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

SMALL WIRELESS FACILITIES DEPLOYMENT ACT – Act of Jun. 30, 2021, P.L. 232, No. 50.

SOLAR ARRAY – A grouping of multiple solar modules/panels with the purpose of harvesting solar energy.

SOLAR CELL – The smallest basic solar electric device which generates electricity when exposed to light.

SOLAR ENERGY SYSTEM – A complete design or assembly consisting of a solar energy Collector, an energy storage facility (where used), and components for the distribution of transformed energy.

SOLAR MODULE – A grouping of solar cells with the purpose of harvesting solar energy.

SOLAR PANEL – That part or portion of a Solar Energy System containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and cooling, and/or for electricity.

SPECIAL EXCEPTION USE – A Use conditionally permitted in a particular Zoning District under this Ordinance that may be undertaken only following the approval by the Zoning Hearing Board and the subsequent issuance of a Zoning Permit by the Zoning Officer pursuant to standards and criteria established in this Ordinance.

SPECIAL FLOOD HAZARD AREA (SFHA) – Means an area in the Floodplain subject to a one (1) percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1 A30, AE, A99, or, AH.

SPECIFIED ANATOMICAL AREAS – Means any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola.

2. Human male genitals in a discernable turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES – Means any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.

2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.

3. Excretory functions as a part of or in connection with any of the activities set forth in 1. or 2. this definition.

START OF CONSTRUCTION – Includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days after the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Zoning Officer. The actual start means either the first placement of permanent construction of a Structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of Streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary

forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main Structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a Building, whether or not that alteration affects the external dimensions of the Building.

STORM WATER MANAGEMENT BASIN – Any facility used to retain or detain storm water, that is part of a storm water management system.

STORY – The part of a Building between the surface of any floor and the next floor above it or in its absence, the finished Story if its floor level is six feet or more above the level of the line of the finished floor next below it. Any floor under a sloping roof at the top of a Building, which is more than two feet below the top plate shall be counted as a Story; and, if less than two feet below the top plate, it shall be counted as a half-Story. A basement shall be counted as a Story if it averages more than five feet above grade (See Figure 6.01).

STREAM – A Watercourse with definite bed and banks which confine and convey continuously or intermittently flowing water.

STREET – Any Street, avenue, boulevard, road, highway, freeway, parkway, lane, viaduct, or any other way used or intended for use by vehicular traffic or pedestrians, whether public or private. The word "Street" includes the entire Right-of-Way and is not limited to the Cartway area. Streets in West Pennsboro Township include the following classification types:

1. *Interstates*. Limited Access Highways designed for traffic between major regional areas or larger urban communities of 50,000 or more; these highways extend beyond state boundaries with access limited to interchanges located by the U.S. Department of Transportation. West Pennsboro Township includes Interstates 76 (Pennsylvania Turnpike) and Interstate 81. See Table 6.02, West Pennsboro Township Roadway Classifications.

2. *Principal Arterials*. Roadways that provide land access while retaining a high degree of thru traffic mobility and serve major centers of urban activity and traffic generation. They provide a high-speed, high-volume network for travel between major destinations in both rural and urban areas. See Table 6.02, West Pennsboro Township Roadway Classifications.

3. *Minor Arterials*. Roadways that give greater emphasis to land access with a lower level of thru traffic mobility than Principal Arterials and serve larger schools, industries, hospitals, and small commercial areas not incidentally served by Principal Arterials. See Table 6.02, West Pennsboro Township Roadway Classifications.

4. *Collectors*. Collector roadways serve dual functions—collecting traffic between Local Roadways and Minor Arterial Streets and providing access to Abutting properties. They serve minor traffic generators, such as local elementary schools, small individual industrial plant, office, commercial facilities, and warehouses not served by Principal and Minor Arterials. See Table 6.02, West Pennsboro Township Roadway Classifications.

5. *Local Roads*. Roadways that are local in character and serve farms, residences, businesses, neighborhoods, and Abutting properties. See Table 6.02, West Pennsboro Township Roadway Classifications.

Table 6.02
West Pennsboro Township Roadway Classifications

Roadway Classification	Roadways
Interstates	I-76 (Pennsylvania Turnpike)
Principal Arterials	N/A
Minor Arterials	PA 233 (SR 0233) PA Route 641 (SR 0641)
Major Collectors	US Route 11
Minor Collectors	Bloserville Rd. (SR 0421)
Local Roads	Big Spring Rd. (SR 3007) All Township Owned Roads

Sources: Pennsylvania Department of Transportation, Federal Functional Classification Map Cumberland County Type 10 Map, West Pennsboro Second Class Twp. Map

STREET CENTERLINE – A baseline used for the layout of Lots and the construction of a Cartway generally midway between the Street lines.

STREET FRONTAGE – See Frontage, Street.

STREET LINE (RIGHT-OF-WAY LINE) – A line defining the edge of a Street Right-of-Way and separating the Street from abutting property or Lots. The Street Line shall be the same as the legal Right-of-Way line currently in existence.

STREET WALL – The façade wall of a Building or portion of a wall facing a Street line.

STRUCTURALLY SOUND – Substantially free from flaw, defect, decay or deterioration to the extent that the Building or Structure or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed.

STRUCTURE – Anything constructed or erected on the ground or attached to the ground. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to the land. Structures include but are not limited to buildings, sheds, cabins, mobile homes and trailers, dams, culverts, roads, railroads, bridges, storage tanks, and signs. Structures shall not include such things as fences, sandboxes, decorative fountains, swing sets, birdhouses, birdfeeders, mailboxes, and any other similar non-permanent improvements.

STRUCTURE, ACCESSORY – A Structure associated with an accessory use, (e.g., swimming pools, patios, antennas, tennis courts, garages, utility shed, etc.).

STRUCTURE, PRINCIPAL – A Structure associated with a primary use. Structures shall not include such things as temporary fences, sandboxes, decorative fountains, swing sets, doghouses, birdhouse, bird feeders, mailboxes, and any other similar non-permanent improvements.

STRUCUTRE, TEMPORARY – A Structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary Structure was erected has ceased.

SUBDIVISION – The division or redivision of a Lot, tract or parcel of land by any means into two (2) or more Lots, tracts, parcels or other divisions of land including changes in existing Lot lines for the purpose, whether immediate or future, of lease, partition of the court for distribution to heirs or devisees, transfer of ownership or Building or Lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new Street or easement of access, or any residential dwelling, shall be exempted.

SUBSTANTIAL CHANGE – A modification substantially changes the physical dimensions of any support Structure if it meets the criteria established by 47 CFR §1.6100.

SUBSTANTIAL DAMAGE – Damage from any cause sustained by a Structure whereby the cost of restoring the Structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the Structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition, or other improvement of a Structure, of which the cost equals or exceeds fifty (50) percent of the market value of the Structure before the Start of Construction of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a Structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

SUBSTANTIAL IMPROVEMENT – Any repair, reconstruction, or improvement of a Structure, the cost of which equals or exceeds fifty percent (50%) of the fair market value of the Structure either (a) before the improvement or repair is started or (b) if the Structure has been damaged, and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the Structure commences, whether or not that alteration affects the external dimensions of the Structure.

SWIMMING POOL – Any structure intended for swimming, recreational bathing, or wading that contains water over twenty-four (24) inches (610 mm) deep. It includes in-ground, above-ground, and on-ground pools, as well as hot tubs, spas, and fixed-in-place wading pools.

TEMPORARY PORTABLE STORAGE UNIT (commonly known as PORTABLE ON DEMAND STORAGE or PODS®) – Any mobile container, storage unit, shed-like container or other portable Structure that is not permanently affixed to the land, is designed for temporary short-term storage, is not intended for human habitation, that can be or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed Building, other than an accessory Building or shed complying with all Building codes and land use requirements.

TESTING – A function involving the examination and assessment of qualities, performances, capabilities, or any combination thereof, of a product, good or material.

TOTAL FLOOR AREA – The area of all floors in all Buildings measured to the outside of the exterior walls, excluding attics, basements, and open porches (measured in square feet). (Note: An

"open porch" has a Roof but is not enclosed with screens or windows. Porches enclosed with screens or windows shall be counted toward Total Floor Area.)

TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (TOWER-BASED WCF) – Any Structure that is used for the primary purpose of supporting one or more antennae, including, but not limited to, self-supporting lattice towers, guy towers, and monopoles, and the accompanying Antenna and Accessory Equipment.

TOWNSHIP – West Pennsboro Township, Cumberland County, Pennsylvania.

TRACT AREA, ADJUSTED OR ADJUSTED TRACT AREA – The gross tract area minus the constrained land.

TRACT AREA, GROSS – The total amount of land contained within the limits of the legally described property lines bounding the tract.

TRAILER – A vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

TRUCK – A motor vehicle or a combination of vehicles having a gross vehicle weight rating or gross combination weight rating in excess of 26,000 pounds primarily designed to carry cargo, freight, goods or material. For purposes of this definition, the gross vehicle weight rating shall be the value specified on the Federal weight certification label by the manufacturer as the loaded weight of a single vehicle and the gross combination weight rating shall be the value specified by the manufacturer as the load weight of a combination.

UNDEVELOPED LAND – Any lot, tract or parcel of land, which has not been graded or in any other manner prepared for the construction of a Building.

UNIFORM CONSTRUCTION CODE (UCC) – The statewide Building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

UNIFORM PLANNED COMMUNITY ACT – 68 Pa.C.S. § 5101 – 5414, *et seq*.

USE – The specific purpose for which land or a Building or Structure is designed, arranged, intended, occupied, or maintained..

USE, PERMITTED – Means any Use allowed by right within a Zoning District, subject to the restrictions applicable to that Zoning District, and that is not a Special Exception Use.

USE, PRINCIPAL – The dominant purpose for which a Lot or Building is utilized.

USE, TEMPORARY – Any Use authorized under and in accordance with the provision of this Ordinance which is limited to the time in which such Use may legally continue.

UTILITY, PUBLIC OR PRIVATE – (1) Any agency which under public franchise or ownership, or under certificate of convenience and necessity, provides the public with electricity, gas, heat,

steam, communication, rail transportation, water, sewage collection or other similar service, (2) a closely regulated private enterprise with an exclusive franchise for providing a public service.

VARIANCE – The permission granted by the Zoning Hearing Board following a Public Hearing that has been properly advertised as required by the Pennsylvania Municipalities Planning Code, as amended, for an adjustment to some regulation which, if strictly adhered to, would result in an unnecessary hardship and where the permission granted would not be contrary to the public interest, and would maintain the spirit and original intent of the Ordinance.

VEHICLE – Every device which is or may be moved or drawn upon a highway, except devices which are infrequently operated or moved upon a highway but are designed primarily for use in construction or agriculture or road maintenance, devices moved by human or animal power, devices used exclusively upon rails or tracks, motorized pedalcycles and mobility vehicles.

VOLUNTARILY – Means any act(s) done by design or intention, which is proposed, intended, or not accidental. An Act of God is not considered voluntary, but rather is regarded as an act done without the will or choice of the Applicant (or Owner, if different from Applicant). For the purposes of this Ordinance, the destruction of a significant Building or Structure for failure to properly secure it shall be considered voluntary.

WATER BODY – Any natural or manmade pond, lake, Wetland, impoundment, or watercourse. This shall not include any pond or facility designed and constructed solely to contain stormwater, or a swimming pool.

WATER SYSTEM – A water facility providing potable water to individual lots or to the public for human consumption.

WATER SYSTEM, NONPUBLIC – All water systems which are not public water systems.

WATER SYSTEM, OFF-LOT – An approved water system in which potable water is supplied to a dwelling or other building from a central water source which is not located on the same lot as the dwelling or building.

WATER SYSTEM, ON-LOT -- A well or other approved system designed to provide potable water to a dwelling or building located on the same lot as the source.

WATER SYSTEM, PUBLIC: A water system, as defined by the Pennsylvania Department of Environmental Protection, which has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least 60-days out of the year.

WATERCOURSE – A channel or conveyance of surface water, such as a stream creek, or run, having a defined bed and banks, whether natural or artificial, with perennial or intermittent flow. For the purposes of the Ordinance, a watercourse shall not include manmade swales constructed expressly for the purpose of stormwater management.

WATERCOURSE, EPHEMERAL – A stream or portion of a stream that flows only in direct response to precipitation. It receives little or no water from springs and no long-continued supply from melting snow or other sources. Its channel is at all times above the water table. The term may be arbitrarily restricted to streams which do not flow continuously during periods of the month.

WATERCOURSE, INTERMITTENT – A defined channel in which surface water is absent during a portion of the year, as ground water levels drop below the channel bottom.

WATERCOURSE, PERENNIAL - A defined channel containing surface water throughout the year.

WETLAND OR WETLANDS – Those areas inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances, do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, ponds, lakes, and similar areas. Wetlands shall include any area so delineated by the National Wetlands Inventory of the U.S. Fish and Wildlife Service and all lands regulated as wetlands by the Pennsylvania Department of Environmental Protection (PADEP) or the U.S. Army Corps of Engineers (ACE). In the event there is a conflict between the definitions of these agencies, the more restrictive definition that defines the wetlands most expansively shall apply.

WIND ENERGY SYSTEM (WES) – Equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system.

WIND ENERGY SYSTEM, ACCESSORY (AWES) – A WES designed as a secondary use on a Lot, wherein the power generated is used primarily for on-site consumption.

WIND ENERGY SYSTEM, PRINCIPAL (PWES)– A WES designed as the primary use on a Lot, wherein the power generated is used primarily for off-site consumption.

WINDOW – An opening to the outside other than a door which provides all or part of the required natural light, natural ventilation or both to an interior space. The glazed portion of a door in an exterior wall may be construed to be a window in regard to provision of natural light.

WIRELESS COMMUNICATIONS FACILITY APPLICANT (WCF Applicant) – Any Person that applies for a wireless communication facility Building permit, zoning approval, and/or permission to use the public Right-of-Way (ROW) or other Township-owned land or property.

WIRELESS SUPPORT STRUCTURE – A pole, tower, base station, or other Building, whether or not it has an existing antenna facility that is used or is to be used for the provision of wireless service (whether on its own or commingled with other types of services).

WOODLAND DISTURBANCE – Any activity that:

1. Alters the existing Structure of a woodland or hedgerow, including the cutting or removal of canopy trees, sub-canopy trees, understory shrubs and vines, and herbaceous woodland floor species; or
2. Constitutes a land disturbance within a woodland or hedgerow.

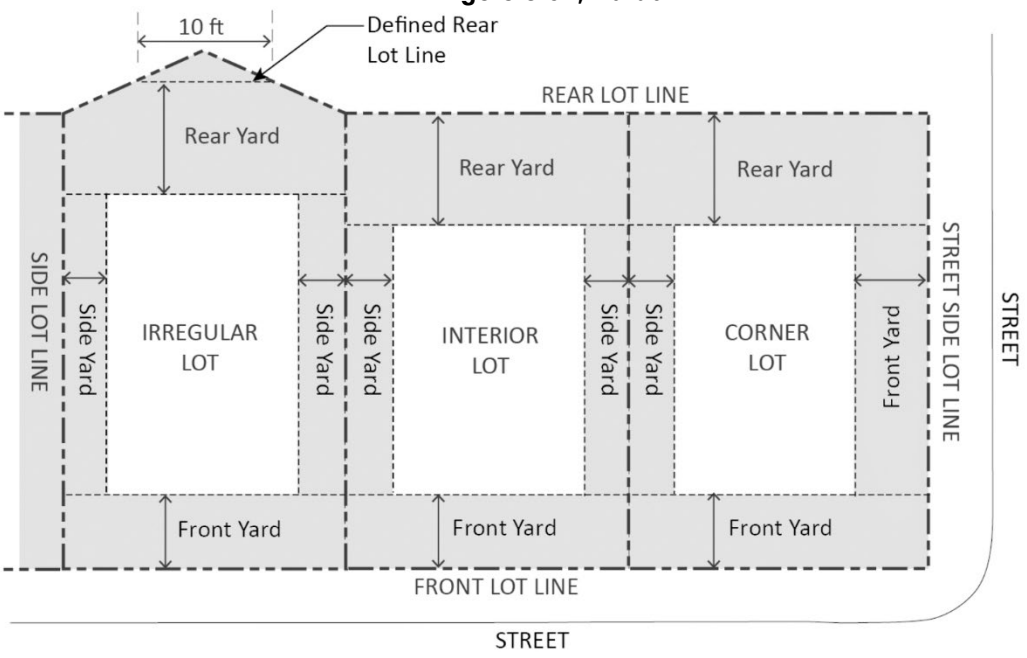
Woodland Disturbance does not include the selective cutting or removal of invasive plant species. (See INVASIVE PLANT SPECIES).

WOODLANDS – A tree mass or plant community in which tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete, aerial canopy. Any area, grove, or stand of mature or largely mature trees [larger than twelve (12) inches DBH] covering an area of one-quarter (1/4) acre or more or consisting of ten (10) individual trees larger than six (6) inches DBH, shall be considered a woodland. The extent of any

woodland plant community or any part thereof shall be measured from the outer-most drip line of all the trees in the plant community.

YARD – An area between the permitted structures and the property lines (see Figure 6.09).

Figure 6.09, Yards



YARD, BUFFER – A strip of required yard space adjacent to the boundary of a property or district, not less than the width designated in this Ordinance, and on which is placed (planted) year-round shrubbery, hedges, evergreens or other suitable plantings of sufficient Height and density to constitute an effective screen and give maximum protection and immediate screening to an abutting property or district, and may include a wall, as provided for in this Ordinance.

YARD, EXTERIOR – An open, unoccupied space between a Building and the property boundary or Street line.

YARD, FRONT – An open unoccupied space on the same Lot with a Building, extending the full width of the Lot and situated between the Street line and the Building line projected to the side lines of the Lot. The depth of the front yard shall be measured between the front Building line and the Street line (See Figure 6.09).

YARD, INTERIOR – An open, unoccupied space between Building Structures, all of which are located on the same Lot.

YARD, REAR – The area contained between the principal Structure and the property line directly opposite the Street of address. For flag Lots, the rear yard shall be that area between the principal Structure and that Lot line which is directly opposite the above described front yard.

YARD, SIDE – The area (s) between a principal Structure and any side Lot line(s). On corner Lots, the side yard shall be considered those areas between the principal Structure and the property lines directly opposite the non-address Street(s). For flag Lots, the side yards shall be the area between the principal Structure and that one (1) outermost Lot line which forms the flag and pole, plus the area on the opposite side of the principal Structure (see Figure 6.09).

YIELD PLAN OR YIELD PLAT – A method of evaluating the maximum possible number of residential dwelling units that can be constructed on a property under the current zoning district regulations.

ZERO LOT LINE – The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

ZONING – The designation of specified districts within the Township, reserving them for certain uses together with limitations on Lot size, heights of structures and other stipulated requirements.

ZONING DISTRICT – A section of a Township designated in the Zoning Ordinance text and delineated on the Zoning Map, in which requirements for the use of land and building and development standards are prescribed.

ZONING MAP – The map setting forth the boundaries of the Zoning Districts of the Township, as adopted by ordinance by the West Pennsboro Township Board of Supervisors.

ZONING OFFICER – The duly constituted municipal official designated to administer and enforce this Ordinance in accordance with its literal terms.

APPENDIX A – WIRELESS FACILITIES DESIGN MANUAL

West Pennsboro Township
Wireless Facilities Design Manual

Section 1: Purpose and Intent

The purpose of this Wireless Facilities Design Manual is to provide the Township with uniform design and aesthetic standards regarding the placement of Small Wireless Facilities within the Right-of-Way consistent with the Township's obligation to promote the public health, safety, and welfare; to manage the Right-of-Way; and to ensure that the public's use is not obstructed or disturbed by the use of the Right-of-Way for Small Wireless Facilities. The Township recognizes the importance of wireless telecommunications facilities to provide high-quality communications and internet access services to residents and businesses within the Township. The Township also recognizes its obligation to comply with applicable federal and state laws regarding the placement of wireless telecommunications facilities in the Right-of-Way including, without limitation, the Telecommunications Act of 1996, 47 U.S.C. § 151, *et seq.*, and Act 50 of 2021, 53 P.S. §§ 11704.1 – 11704.11.

Section 2: Definitions

The definitions contained in Article 6 of the West Pennsboro Township Zoning Ordinance are incorporated into this policy by reference as though fully set forth herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural.

Section 3: Aesthetic and Design Requirements for Small Wireless Facilities

The following aesthetic and design requirements shall apply to any person who installs, operates, Modifies, or maintains a Small Wireless Facility in the Right-of-Way:

1. An Applicant and/or Permittee shall use all design techniques possible to minimize the visual impact of a Small Wireless Facility on the public during and after the installation, Modification, or repair of a Small Wireless Facility.

2. Applicants and/or Permittees shall minimize the quantity and size of Accessory Equipment placed on Wireless Support Structures. Long and narrow Accessory Equipment, as opposed to wide and bulky Accessory Equipment, shall be used. Accessory Equipment shall be clustered together as much as possible and located toward the top of the Wireless Support Structure when possible.
3. No Applicant and/or Permittee shall install or attach flashing lights or unnecessary, distracting, non-essential or poorly placed signage or stickers, unless required by Applicable Codes or agreed upon by the Township, on any Small Wireless Facility, Accessory Equipment, or Wireless Support Structure.
4. No Small Wireless Facility or Accessory Equipment shall have any exposed cables or wiring. All cables and wiring shall be concealed or contained within a Wireless Support Structure unless doing so is not Technically Feasible as determined by the Township's engineer. If the cables and wiring cannot be contained within the Wireless Support Structure, then all cables and wires shall be contained within a conduit that is flush mounted to the Wireless Support Structure. All conduits shall be of a color that matches the Wireless Support Structure to which the Small Wireless Facility is attached and be non-reflective unless otherwise agreed upon by the Permittee and Township.
5. Spools and/or coils of excess wires or cables shall not be stored on a Wireless Support Structure unless they are completely within the approved enclosures or conduits.
6. All cables and wiring shall be installed tautly and without excessive slack or extra cable storage on the Wireless Support Structure. Extra wiring shall not be attached to any Wireless Support Structure.
7. Exterior panel Antennas shall not exceed the height of the Wireless Support Structure.

8. Antennas and Accessory Equipment shall not extend further than 20 inches from the Wireless Support Structure.
9. Applicants and/or Permittees shall avoid installing Small Wireless Facilities on Wireless Support Structures that are directly in front of dwelling units or businesses. Wireless Support Structures near Street corners, landscaped areas, or in Alleys shall instead be considered for installation first.
10. Small Wireless Facilities and Accessory Equipment shall be painted with graffiti-resistant paint which matches the Wireless Support Structure's color and surroundings.
11. Colors and materials for Small Wireless Facilities, Antennas, and Accessory Equipment shall be chosen to minimize visibility and be compatible with the surrounding environment. Muted colors, earth tones, and subdued hues, such as light green, brown, gray, or light blue, or a color that is more compatible with the surrounding architecture or environment only as approved by the Township shall be used. Small Wireless Facilities, Antennas, and Accessory Equipment shall match the color of the Utility Pole or Municipal Pole that they are attached to if they are attached to such Structure.
12. Advertisements are prohibited on a Wireless Support Structure, Accessory Equipment, or Small Wireless Facility. Likewise, all manufacturer decals, logos, and the like shall be removed or otherwise entirely concealed by the Applicant/Permittee from any Wireless Support Structure, Accessory Equipment, or Small Wireless Facility.
13. If technically feasible, all Accessory Equipment shall be entirely contained or enclosed within a single cabinet which has the smallest physical dimensions possible.

14. Any replacement Wireless Support Structure shall be placed as close as possible to the existing Wireless Support Structure that is being replaced.
15. Any replacement Wireless Support Structure shall substantially conform to the material and design of the existing Wireless Support Structure or to the adjacent Wireless Support Structures located within the contiguous Right-of-Way.
16. The height of any replacement Wireless Support Structure shall not extend more than 10 feet above the height of the existing Wireless Support Structure.
17. RESERVED.

Section 4: Updates

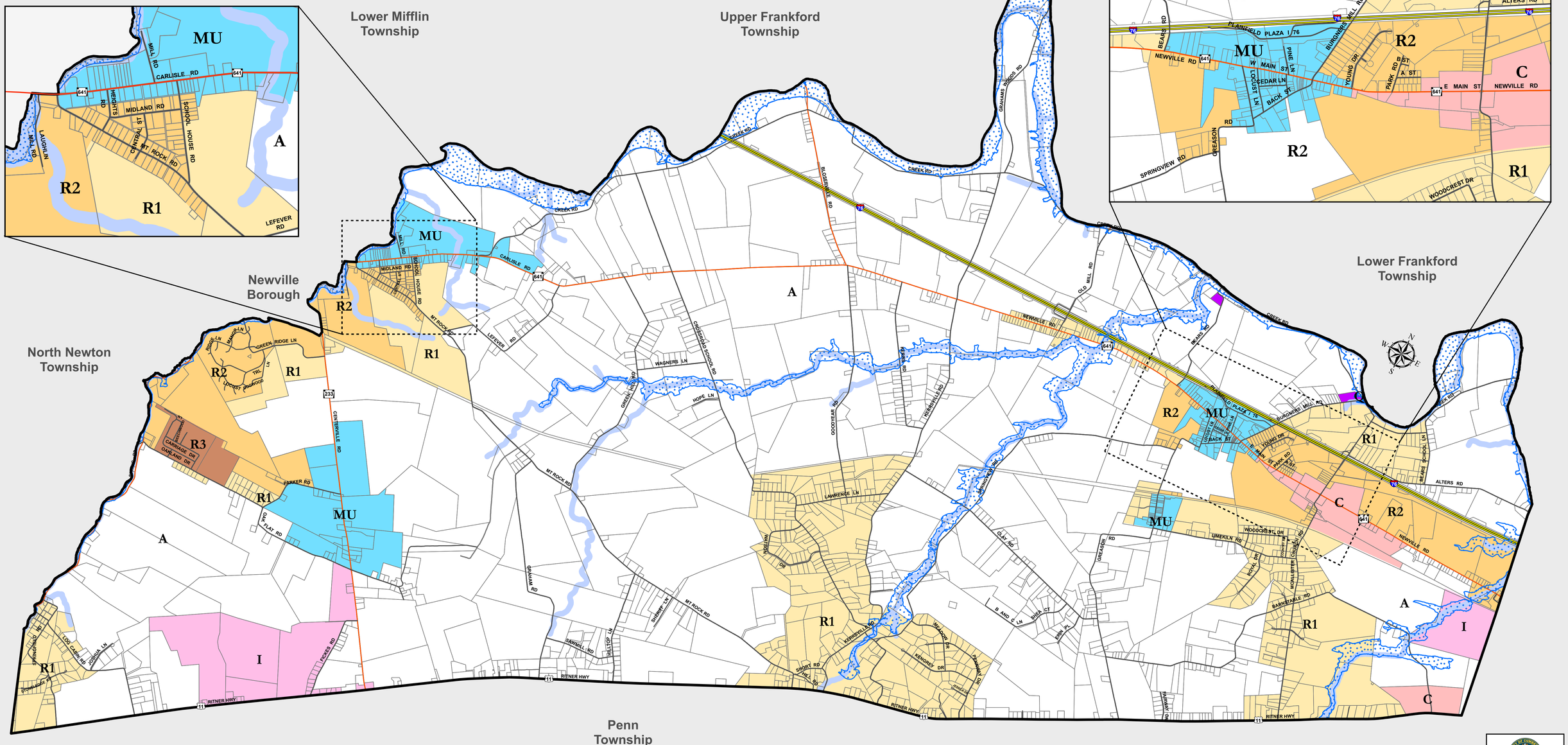
This Wireless Facilities Design Manual may be updated from time-to-time by resolution of the Township.

Section 5: Limitations

Nothing contained in this Wireless Facilities Design Manual shall be deemed to restrict or otherwise limit the lawful exercise of the discretion of Township staff in approving and issuing a Permit that deviates from the strict application of these standards where, in the sole and exclusive judgment of the Township, circumstances so warrant.

Section 6: Effective Date

This Wireless Facilities Design Manual shall be effective as of the enactment date of this Ordinance.



West Pennsboro Township Zoning Map

COUNTY DISCLAIMER

This map was digitally compiled for internal maintenance and developmental use by the Cumberland County, Pennsylvania, GIS & Planning Departments to provide an index to parcels and for other reference purposes. Parcel lines do not represent actual field surveys of premises. County of Cumberland, Pennsylvania makes no claims as to the completeness, accuracy or content of any data contained hereon, and makes no representation of any kind, including, but not limited to, the warranties of merchantability or fitness for a particular use, nor are any such warranties to be implied or inferred, with respect to the information or data furnished herein.

No part of this document may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, except as expressly permitted by the County of Cumberland and the Township of West Pennsboro.

Refer to the officially enacted "Draft West Pennsboro Township Zoning Ordinance" for information regarding interpretation of zoning district boundaries, floodplain area boundaries, procedures for requesting amendment to this map, etc.

ENACTED AND ORDAINED this _____ day of _____ 2025

ATTEST

WEST PENNSOBO TOWNSHIP
BOARD OF SUPEVISORS

_____
Larry Barrick, Jr.
Zoning Officer/Codes Enforcement Officer

_____ _____
Donald S. Agar, Chairman Township Manager

This is to certify that the map bearing this legend was adopted as the official Zoning Map of the Township by enactment of the Zoning Ordinance of West Pennsboro Township, Cumberland County Pennsylvania under Ordinance No. _____-2025.

Reference

- Municipal Boundary
- Tax Parcels
- Interstates
- State Roads
- Local Roads

Zoning & Overlay Districts

- Agriculture (A)
- Low Density Residential (R1)
- Medium Density Residential (R2)
- High Density Residential (R3)
- Mixed-Use (MU)
- Commercial (C)
- Industrial (I)
- Quarry (Q)
- Floodplain Overlay (FO)
- Riparian Buffer Overlay (RBO)

PLANNING DEPARTMENT
Cumberland County

Cumberland County Review Report

Cumberland County Planning Department
310 Allen Road, Suite 101
Carlisle, PA 17013
Telephone: (717) 240-5362

Recommendation: Choose an item.

Name of Amendment:				
Middlesex Township New Zoning Ordinance and Zoning Map				
Municipality:	*Date Received:*	*Date Reviewed:*	*Reviewed By:*	*Checked By:*
Middlesex Township	3/21/2025 7/3/2025	4/17/2025 8/21/2025	SH, EG, KS	Planning Commission
Type of Amendment:				
New Zoning Ordinance				

Explanation of Amendment:

Middlesex Township has submitted a new zoning ordinance and zoning map for review and comment. The proposed zoning ordinance will replace the existing Middlesex Township Zoning Ordinance that was adopted in 1989.

CCPC reviewed the ordinance and map on April 17, 2025 and recommended disapproval of the ordinance. Middlesex Township has revised the ordinance and resubmitted on July 3, 2025 for official review and recommendation.

Consistency:

Cumberland County Comprehensive Plan

The 2024 Cumberland County Comprehensive Plan[1] is organized around the Cumberland Principles. These principles guide effective planning practices which benefit the environment, economic development, and the community. The following table determines consistency between the proposed amendment and the Cumberland Principles.

The Cumberland Principles (Comprehensive plan page number)	**Consistency**
Protect the Best First (page 20)	• Floodplain overlay is included in the ordinance. • North Mountain Conservation district is proposed. • The Appalachian Trail Corridor will be protected. • Agriculture district will protect sensitive farmland.
Grow In Not Out (page 29)	• High density residential development is permitted in the MU-1, MU-2 and ROO districts where there is public sewer and public water service.

[1] https://www.cumberlandcountypa.gov/4888/Comprehensive-Plan

The Cumberland Principles (Comprehensive plan page number)	Consistency
	• Intense commercial development is centered on major transportation corridors served with public infrastructure.
Housing for All (page 37)	• The MU-1 and MU-2 districts include requirements for a mixture of housing types. • Housing variability is permitted in several zoning districts.
Plan for People and Places (page 44)	• Many of the intense land uses come with setback and screening / buffering requirements.
Adapt and Stay Safe (page 64)	• The floodplain overlay requirements meet the minimum requirements established by FEMA.
Open for Business (page 71)	• The redevelopment opportunity overlay (ROO) district is designed to improve the miracle mile corridor. • Nonresidential growth is encouraged along the Harrisburg Pike.

Middlesex Township Comprehensive Plan

The Middlesex Township Comprehensive Plan was adopted in 2003. Since 2003, the township has seen significant residential and nonresidential growth and development. In addition, the township vision has likely changed and should be updated. CCPD recommends that the township update the comprehensive plan to guide growth and land use in Middlesex Township.

The following comments were made after the April 17, 2025 CCPC review. These are new comments provided for CCPC action.

1. Page 43, table 2.12. Other permitted nonresidential uses with on-lot water and sewer indicates a double asterisk. This should be removed as a footnote is not included.
2. Page 50, section 2.17 D. The numbering of the list of airport zones within the AHO district is different from the numbering utilized on the Middlesex Township Zoning Map, revised June 2025. In addition, the labeling of Conical Surface and Horizontal Surface on the Map does not appear to correspond with their locations on the Map Inset. Consider moving the numbers 4 and 3 in alignment with other numbers on the map inset for clarity or removing the titles for the surface areas from the main map.
3. Page 134, section 3.04.D.4.e. Many fast food restaurants are being designed with two drive-through lanes and a single serving window. The township should consider permitting 2 drive-through lanes.
4. Page 137 section 3.04.D.10 and 197 section 3.04.I.8. The ordinance permits and provides a definition of a planned center, commercial and a planned center, industrial. The use definition is vague and appears to permit any commercial or industrial development. These options could open the township to unwanted land uses. The township should consider adding language indicating that uses permitted in a 'planned center' are limited to the uses that are permitted in the zoning district or expanding the definition of these centers to limit land uses.
5. Page 158, section 3.04.G.2. Data centers are permitted in the industrial zone by right. Do data centers in the industrial zone have to meet the same requirements as in the overlay district? As proposed, the façade standards only apply in the overlay district.
6. Page 181, section 3.04.H.10.c.1.b. The sections regulating small WCF should be compared to table 3.02.1 (permitted uses). The language should be consistent.
    a. Small WCF outside the public right-of-way:

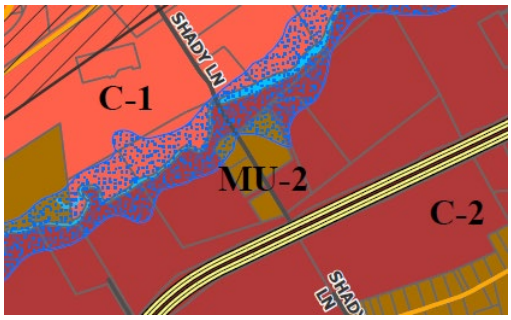
i. Page 181 indicates these are permitted by right in all township zoning districts.

ii. Table 3.02.1 (page 107) indicates these are not permitted in the NMC, ATC, A, R1, R2, R3, R4, and MU1 districts.

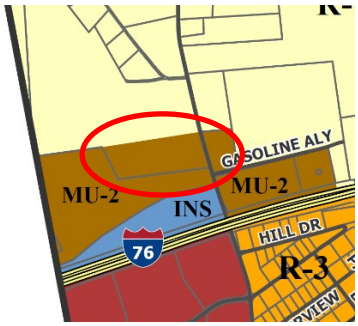
The following comments were approved by CCPC at the April 17, 2025 meeting. It appears that these comments were not addressed. These are provided for municipal consideration.

1. The township has received a number of map amendment requests to the proposed zoning map as well as formal zoning map amendment submissions to rezone parcels under the current zoning ordinance to Village Center, which is not a zoning district under the proposed zoning ordinance. The township should consider closing additional amendment submissions until such time as the zoning ordinance is approved to avoid confusion and promote transparency to the public which has access to the proposed draft ordinance and map on the township website. Applicant requested map amendments could be addressed as public comments on the zoning ordinance.

2. The need for the area zoned MU2 between the Pennsylvania Turnpike and Interstate 81 should be evaluated. The properties are existing residential units in a remote location of the township with limited highway access. These properties are not consistent with the MU-2 purpose statement in the zoning ordinance. The township should consider making this area C2 (see below) to better fit with surrounding zoning and commercial land uses (kennel).

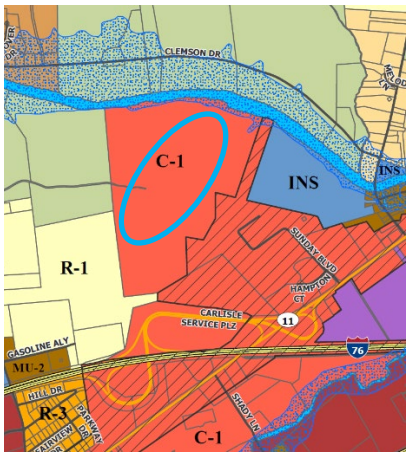


3. The MU2 district north of the Pennsylvania turnpike should follow parcel lines or a physical boundary (see below).



4. The township is proposing to change the following parcel from residential farm (RF) in the existing ordinance to commercial highway (C-1) in the new zoning ordinance (see circled area below).

   The area has limited accessibility to the Harrisburg Pike and therefore does not offer the development potential that other parcels in the proposed corridor provide. In addition, the area includes undeveloped land that is rural in character next to the Conodoguinet Creek.



5. The township should consider adding maximum <u>building</u> coverage requirements to the nonresidential and mixed-use zoning districts. These are regulated in the current zoning ordinance. This term is defined on page 341 but not used in any of the districts.

6. Page 1, section 102. The draft ordinance references the community development objectives specified in the Middlesex Township Comprehensive Plan which was adopted in 2003. The township should consider creating an updated list of community development objectives for the 2024 zoning ordinance. In addition, the township should review and update the comprehensive plan as growth and development has changed the township in the last 20 years. Many of the development objectives in the comprehensive plan are outdated and the future land use map does not appear to be consistent with the proposed zoning map.

7. Page 45, section 2.14. The C-1 district has been extended to include an area that is not located in proximity to the Harrisburg Pike and is currently used as agricultural land (see comment #4). The township should consider removing this area from the C-1 district as it contradicts the second paragraph of the purpose statement which focuses on redevelopment of the miracle mile.

   It shall further be the intent of this District to encourage <u>reinvestment, revitalization, and overall enhancement</u> of certain land <u>along the Harrisburg Pike (SR 0011, "Miracle Mile") corridor</u> through development standards that encourage innovation and promote flexibility, economy, and ingenuity in development <u>(i.e., infill, replacement and redevelopment).</u>

8. Page 49, table 2.16. The table permits a warehouse and distribution use with on-lot water and / or on-lot sewer. CCPD recommends requiring public water and public sewer service as well as frontage to an arterial road for these uses (Note section 3.04.I.12.a page 201 requires frontage on an arterial road).

   a. It appears that the rows on table 2.16 conflict with the warehouse and distribution requirements found on page 201, section 3.04.I.12. The specific area and bulk requirements for warehouse/distribution should be removed from table 2.16 and shown on page 201 to be consistent with other uses.

9. Page 54, table 2.18. the bulk and area regulations for a data center permit 70% lot coverage and 70% impervious coverage. Both are defined as including all impervious surfaces. The township should remove the lot coverage requirement to be consistent with other zones.

   See also, comment #5. The township should consider including a maximum <u>building</u> coverage requirement.

10. Page 54, section 2.18.G – The township should consider the need for extensive façade standards for data center uses when other industrial/commercial buildings are not subjected to the same standards. If the

township desires attractive facades for large industrial or commercial buildings, such standards should be applied to all building types, not just data centers.

11. Page 85, section 2.20. The ROO district uses several contemporary planning tools to achieve a higher standard of development that can revitalize the Carlisle Pike. However, those provisions are optional, and the C-1 district that surrounds the Carlisle Pike has no innovative planning requirements. The township should consider removing the C-1 district and making the ROO a fixed zoning district that would include the properties in the current C-1 zone. The township could review the ROO and modify requirements to make sure the zone allows appropriate uses and encourages attractive development patterns without overburdening property owners with regulation.
12. Page 88, section 2.20.I.4.g.3. The township should reference these incentives (or this section) in the ROO district bulk and area regulations table.
13. Page 97-98 section 2.22.D. The wellhead protection overlay should be depicted on the zoning map.
14. Articles 3 and 4 are large, cumbersome and include a lot of regulations. For ease of the user and the zoning officer, and to reference subsections, it is recommended that a reference to the subsection should be placed at the bottom or side of each page. The zoning uses table should be modified to reference the page number where each use is defined and additional regulation listed. In addition, the numbering in the zoning ordinance should be reconfigured to include the article and subsections. An example of numbering is below:

602.12	**Street Intersections.**
602.12.1	All intersections with a State Route shall be subject to the approval of the Pennsylvania Department of Transportation (PennDOT). Copies of Highway Occupancy Permits from PennDOT shall be submitted for all proposed intersections with a State Route prior to Final Plan approval.
602.12.2	Multiple intersections involving the junction of more than two streets are prohibited. Only two, three, and four-way intersections are permitted.
602.12.3	The distance between the centerline intersections of streets shall be measured along the centerline of the street being intersected and conform with the following:

15. Page 134, section 3.04.D.4. The township should determine whether the section regulating a 'drive through only facility' should include a minimum queuing area for vehicle lines.
16. Page 135, table 3.04.2. The table includes a 'cigar, cigarettes, tobacco shop' as a typical neighborhood retail use. The township should determine whether this use may be considered a 'electronic cigarette / vaporizer store'. The definition should differentiate between these uses.
17. Page 172, section 3.04.H.6.b.2.h. The setback requirement for a wind turbine from the Appalachian Trail, a historic resource, historic structure, or historic site is 2,500 feet. The township should review as this setback seems excessive. What is the rationale for this requirement? Also, the township should compare this setbacks to those established for a principal solar energy system.
18. Page 200, section 3.04.I.10. The definition of a 'truck terminal' includes warehousing, distribution and transfer facilities as an accessory use. What is the purpose of this definition? The township should review and clarify what is permitted with a truck terminal.
19. Page 203, section 3.04.l.12.i.4. This section requires stacking lanes but does not include a specific distance. Many warehouses are designed and constructed without knowledge of the tenant or the need for stacking / staging areas. The ordinance should consider a calculation, or a specific requirement for stacking lanes, rather than an unenforceable and vague requirement.

20. Page 238, section 4.01.A.1. The requirements for accessory buildings and structures should be reviewed. Many of the bulk and area tables in each zoning district include setback and height requirements for accessory buildings. The height and setback requirements on page 238 should reference the zoning bulk and area requirements in each district.

21. Page 293, section 4.15.F.3.a. The ordinance should prohibit vehicles from having to back into a public street except in the case of residential dwellings on local streets. The township should consider high density residential developments that may require vehicles to back into the street.

22. Page 320, section 5.05. The township solicitor should review the proposed signs to determine whether the language is content neutral. The following sign types may not be considered content neutral:

    a. Signs identifying semi-public uses
    b. Property control signs
    c. Individual business signs identifying the name and type of business and/or any trademark of the business conducted on the premises.
    d. Real estate sale, sold, or rent signs
    e. Auctions, garage, or yard sale signs
    f. Political Yard Signs
    g. Roadside stand signs for the sale of agricultural products

23. The following comments refer to section 6.02.A (definitions), page 337-376.

    a. The ordinance should differentiate between an access drive and a driveway.
    b. The definition of 'alley' should be consistent with the definition in the subdivision and land development ordinance (SLDO).
    c. The definition of 'easement' should be consistent with the definition in the SLDO.
    d. The township should clarify the requirement for lot width. Is this measurement taken at the street right-of-way, or the setback line? The definitions of 'frontage' and 'lot width should be consistent.
    e. The definition of 'lot coverage' includes porous pavement materials. This should be compared with the definition of pervious surface which includes 'permeable paving'. The township should determine whether porous pavement/permeable paving is considered impervious.

       The definition of 'impervious cover/surface' does not include porous/permeable paving.

    f. Page 369. The definition of a collector street indicates that these streets serve minor traffic generators, such as local elementary schools, small individual industrial plants, offices, commercial facilities and warehouses not served by principal and minor arterials. Warehouses typically produce truck traffic and are not considered minor traffic generators. The township should consider removing warehouses from this roadway classification or limiting the size of warehouses served by a collector street to less than 50,000 square feet.

"Section 505 (b) and 609 (g) of the Municipalities Planning Code requires that amendments to municipal ordinances be filed with the county planning agency. If this amendment is approved, please forward a final copy to the county planning office so we may update our records."

TOWNSHIP OF MIDDLESEX
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO.

AN ORDINANCE OF THE TOWNSHIP OF MIDDLESEX, CUMBERLAND COUNTY, PENNSYLVANIA, REPEALING IN ITS ENTIRETY ORDINANCE NO. 3-89 ENACTED JUNE 30, 1989 KNOWN AS THE "MIDDLESEX TOWNSHIP ZONING ORDINANCE", AS SUBSEQUENTLY AMENDED, REPEALING THE MIDDLESEX TOWNSHIP ZONING MAP, AND ENACTING A NEW COMPREHENSIVE TOWNSHIP ZONING ORDINANCE AND ZONING MAP.

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:

WHEREAS, the Board of Supervisors of Middlesex Township is authorized by the Pennsylvania Municipalities Planning Code to regulate land use within Middlesex Township through the Middlesex Township Zoning Ordinance, currently identified as Ordinance No. 3-89 enacted June 30, 1989 and as subsequently amended; and

WHEREAS, the Board of Supervisors has determined the current Zoning Ordinance and Zoning Map need to be consolidated and updated due to the numerous prior amendments to Ordinance No. 3-89 and the Zoning Map, and the need to recognized current and new land uses as well as significant trends in land uses not previously recognized in prior ordinance amendments since the original Zoning Ordinance and Zoning Map were adopted and modified starting more than 30 years ago; and

WHEREAS, the Board of Supervisors has tasked the Middlesex Township Planning Commission (the "Planning Commission") with developing a comprehensive zoning ordinance and zoning map applicable to the entirety of Middlesex Township, which task the Middlesex Township Planning Commission undertook in late 2022 and continued diligently through 2024 and into 2025; and

WHEREAS, as required by the Pennsylvania Municipalities Planning Code, the Planning Commission has held numerous public meetings pursuant to public notice to discuss the development of a new comprehensive zoning ordinance and zoning map; and

WHEREAS, on March 24, 2025 and again on , the Planning Commission recommended approval of the comprehensive Zoning Ordinance as well as the Zoning Map with comments to the Board of Supervisors and approved the transmitting of the

Zoning Ordinance and Zoning Map to the Board of Supervisors for a public hearing and enactment; and

WHEREAS, also in accordance with the requirements of the Pennsylvania Municipalities Planning Code, the ordinance adopting the comprehensive Zoning Ordinance and Zoning Map, as well as the Zoning Ordinance and Zoning Map, were submitted to the Cumberland County Planning Department on March 21, 2025 and again on July 3, 2025. Prior to the date of that submission, the Cumberland County Planning Department had reviewed various drafts of portions of the comprehensive Zoning Ordinance and Zoning Map; and

WHEREAS, Middlesex Township properly advertised the time, date and place of the public hearings to be held and notice of the ordinance to be adopted with respect to the new comprehensive Zoning Ordinance and Zoning Map in accordance with the requirements Pennsylvania Municipalities Planning Code; and

WHEREAS, the Board of Supervisors on May 7, 2025 and September 3, 2025 held a duly noticed and advertised public hearings in order to receive public comment on the comprehensive Zoning Ordinance and Zoning Map and to consider the adoption of both; and

WHEREAS, the Board of Supervisors, having received public comment and having received the recommendations of the Planning Commission and the Cumberland County Planning Department, finds that the enactment of the proposed comprehensive Zoning Ordinance and Zoning Map will be beneficial to the health, safety and welfare of Middlesex Township and in accordance with the requirements of the Pennsylvania Municipalities Planning Code.

NOW THEREFORE, in consideration of the recital set forth above, it is hereby ORDAINED and ENACTED by the Board of Supervisors of Middlesex Township, as follows:

SECTION 1: The current Zoning Ordinance identified as Ordinance No. 3-89, as subsequently amended, together with the Zoning Map associated therewith, is hereby repealed in their entirety, excepting, however: (a) any sections of the current Zoning Ordinance and amendments thereto that are incorporated by reference in the new comprehensive Middlesex Township Zoning Ordinance; and (b) any subjects in the current Zoning Ordinance as amended not covered in the new comprehensive Middlesex Township Zoning Ordinance. The new comprehensive Middlesex Township Zoning Ordinance and Zoning Map, collectively attached hereto and incorporated by reference herein as "Exhibit A", are hereby enacted. In the event of any conflict between any portions of the current Zoning Ordinance incorporated by reference in the new comprehensive Middlesex Township Zoning Ordinance and the new comprehensive Middlesex Township Zoning Ordinance, or any subject contained in the current Zoning Ordinance, as amended, not covered in the new comprehensive Middlesex Township Zoning Ordinance, the content of the new comprehensive Middlesex Township Zoning Ordinance shall prevail.

SECTION 2: If any section, sub-section, provisions, regulations, limitation, restriction, sentence, clause, phrase or word in this Ordinance or the Middlesex Township Zoning Ordinance or Zoning Map adopted by this Ordinance is declared by any reason to be illegal, unconstitutional, or invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of this Ordinance as a whole or any other section, sub-section, provisions, regulations, limitation, restriction, sentence, clause, phrase, word or remaining portion of this Ordinance or the Middlesex Township Zoning Ordinance or Zoning Map being adopted hereby, or any portion of the Zoning Ordinance identified as Ordinance No. 3-89, as subsequently amended, to the extent the same continues as provided in Section 1, above.

SECTION 3: This Ordinance shall become effective upon enactment in accordance with applicable law.

DULY ENACTED AND ORDAINED this 3rd day of September, 2025 by the Board of Township Supervisors in public session duly assembled.

MIDDLESEX TOWNSHIP

By:_____
(Vice) Chairman, Board of Supervisors

ATTEST:

_____
Township Secretary

(Township Seal)

EXHIBIT A



Middlesex Township
Cumberland County, PA

DRAFT – 25 JUN 2025

Middlesex Township
Zoning Ordinance

ENACTED:
EFFECTIVE:

MIDDLESEX TOWNSHIP ZONING ORDINANCE

MIDDLESEX TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA

ACKNOWLEDGEMENTS

Board of Supervisors

Donald S. Geistwhite Jr., Chairman
Steven L. Larson., Vice-Chairman
William H. Goodhart

Township Secretary/Manager

Eileen M. Gault

Township Solicitor

Keith Brenneman, Esq., Solicitor

Zoning Officer

Mark D. Carpenter

Planning Commission

Wes Beard
Larry Claycomb
Robynn Eppley
Tracy Gleim
Jim O'Connell
Tom Ryan
Steve Zeigler
Margie Flatley-Carpenter, Secretary

Zoning Ordinance Task Force

Eileen M. Gault
Mark D. Carpenter
Denise Jumper, Recreation Director
Zachary Zook, Public Works Director
Gerald Steigleman, Asst. Code Enforcement Officer / MS4 Coordinator
Tracy Gleim, Planning Commissioner
Larry Claycomb, Planning Commissioner
Robynn Eppley, Planning Commissioner
John Madden, Technical Advisor
Elizabeth Grant, Cumberland County Planning

Consultant

Michael Baker International, Inc.

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ARTICLE 1 GENERAL ZONING PROVISIONS

Section 1.01 Short Title

This Ordinance shall be known and may be cited as the "Middlesex Township Zoning Ordinance", hereinafter referred to as "Ordinance."

ENACTED:[SPECIFY DATE OF ENACTMENT]
EFFECTIVE:[SPECIFY EFFECTIVE DATE OF ORDINANCE]

Section 1.02 Purpose

This Ordinance is intended to guide future growth and development by regulating land uses within Middlesex Township for the improvement of the health, safety, comfort, morals, and general welfare of its citizens.

This Ordinance has been enacted after considering the community development objectives specified in the Middlesex Township Comprehensive Plan, as adopted and amended by the Middlesex Township Board of Supervisors.

In addition to the stated community development objectives, the following items were duly considered in drafting and enacting this Ordinance:

(A) To promote, protect, and facilitate any or all of the following:

1. The public health, safety, and general welfare;

2. The provisions of adequate light and air, access to incidental solar energy,

3. The provision of public services and facilities, including vehicle parking, and loading space, transportation, water, sewerage, schools, recreational facilities, public grounds, the provision of a safe, reliable, and adequate sewer and water supply for domestic, commercial, and other public requirements; and

4. The preservation of the natural, scenic, cultural, and historic resources and landscapes and the protection of forests, wetlands, aquifers, and floodplains.

(B) To provide for the use of land within the Township for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, manufactured housing, provided, however, that this Ordinance shall not be deemed invalid for the failure to provide for any other specific dwelling type.

(C) To accommodate reasonable overall community growth, including population and employment growth, and opportunities for the development of a variety of residential and nonresidential Uses including agriculture, forestry, and associated productions thereof.

Section 1.03 Authority

(A) This Ordinance is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, Act 247, "The Pennsylvania Municipalities Planning Code," July 31, 1968, as amended, hereinafter referred to as "MPC".

(B) *Disclaimer*. It is recognized that: the Act of June 22, 1937 (P.L. 1987, NO. 394) known as "The Clean Streams Law"; the Act of May 31, 1945 (P.L. 1198, No 418) known as the "Surface Mining

Conservation and Reclamation Act"; the Act of April 27, 1966 (1st Special Session, P.L. 31, No. 1) known as "The Bituminous Mine Subsidence and Land Conservation Act"; the Act of September 24, 1968 (P.L. 1040, No. 318) known as the "Coal Refuse Disposal Control Act"; the Act of December 19, 1984 (P.L. 1140, No. 223) known as the "Non-coal Surface Mining Conservation and Reclamation Act"; the Act of June 30, 1981 (P.L. 128, No. 43) known as the "Agricultural Area Security Law"; the Act of June 10, 1982 (P.L. 454, No. 133) entitled "An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances": and the Act of May 20, 1993 (P.L. 12, No 6) known as the "Nutrient Management Act" preempt zoning ordinances. Therefore, suggestions, recommendations, options or directives contained herein are intended to be implemented only to the extent that they are consistent with and do not exceed the requirements of those Acts. Nothing contrary to those Acts shall be mandated by this Ordinance.

Section 1.04 Jurisdiction

This Ordinance shall apply to all properties and uses located within the corporate limits of Middlesex Township, Pennsylvania, hereinafter referred to as "Township."

Section 1.05 Applicability

(A) The terms of this Ordinance shall be applied in consideration of the Middlesex Township Comprehensive Plan.

(B) *Inapplicability of Ordinance to Township and Municipal Authorities of Township*.

1. This Ordinance shall not apply to the uses, lands, and structures applicable to the Township's or the Middlesex Township Municipal Authority's ownership, use, and/or operation to promote, protect, and facilitate the public health, safety, and general welfare of the residents of Middlesex Township.

2. This Ordinance shall not apply to the uses, lands, and structures of any municipal authority created solely by the Township.

(C) The Township's Subdivision and Land Development Ordinance shall provide design standards and other regulations pertaining to the development of land, whereas the Zoning Ordinance provides parameters on the use of land. Both documents correlate with each other to provide the overall regulations administered by the Township Board of Supervisors, Zoning Officer, and/or Zoning Hearing Board, as specified in said Ordinances.

Section 1.06 Interpretation

(A) The regulations specified within this Ordinance shall be considered minimum regulations and all provisions shall be applied uniformly for each class of uses or structures as prescribed by Section 605 of the PA Municipalities Planning Code.

(B) To determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the Township, in favor of the property Owner and against any implied extension of the restriction.

Section 1.07 Severability

Should a court of competent jurisdiction declare any Article, Section, or provision of this Ordinance invalid or unconstitutional, this decision shall not affect the validity or constitutionality of this Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

Section 1.08 Zoning Officer Duties and Powers

(A) The provisions of this Ordinance shall be administered by the Township's Zoning Officer. For the purposes of this Ordinance, the term Zoning Officer shall also include the term Assistant Zoning Officer; the position of which was created by the Township Board of Supervisors under Resolution 2014-7 to enforce provisions of this Ordinance, including, but not limited to, investigating complaints and alleged violations thereof, issuing enforcement notices, instituting and prosecuting enforcement proceeding and violations of this Ordinance and verifying complaints, citations and other legal instruments and documents relating thereto.

(B) The Zoning Officer, and Assistant Zoning Officer, who both shall not hold any elected office in the Township, shall be appointed by the Township Board of Supervisors. The Zoning Officer/Assistant Zoning Officer shall meet qualifications established by the Board and shall be able to demonstrate to the satisfaction of the Board a working knowledge of municipal zoning. The Zoning Officer/Assistant Zoning Officer shall administer this Ordinance in accordance with its literal terms. The Zoning Officer/Assistant Zoning Officer shall ensure compliance with, and issuance of all permits required by this Ordinance. The Zoning Officer/Assistant Zoning Officer may institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment by the Township.

(C) The administration and enforcement duties and powers of the Zoning Officer shall be as follows:

1. To enforce the provisions of this Ordinance.

2. Maintain files of all applications for Zoning Permits along with plans submitted therewith as well as final certificates and permits.

3. Maintain records of every complaint of a violation of the provisions of this Ordinance as well as action taken as a result of such complaints.

Section 1.09 Zoning Permit

(A) *General*.

1. A Zoning Permit shall be required prior to the following activities:

   a. The erection, alteration, enlargement or relocation of any Building, Structure, land or portion thereof;

   b. The Use or change in the use of a Building, Structure or Land;

   c. The alteration or expansion of a Nonconforming Lot, Structure, or Use as regulated under Section 4.12 and as defined in Article 6 of this Ordinance.

   d. Earth Disturbance Activities as defined in Article 6 of this Ordinance.

   e. The erection, placement, installation, alteration, relocation or replacement of a Sign as specified in Article 5 of this Ordinance;

   f. Installation or alteration of driveways or parking areas; and

   g. Erecting a Temporary Use, Structure, or Building.

2. No Zoning Permit shall be required for repairs or maintenance of any Building or Structure, provided such repairs do not change the Use or the exterior dimensions of the Building or Structure or otherwise violate the provisions of this Ordinance.

3. It shall be unlawful for any Person to commence work for the erection or alteration of any Building or Structure or to engage in the change in land use, until a Zoning Permit has been duly issued.

   a. Where a permit is required, but the work is commenced or the Use is commenced or changed prior to obtaining such permit, the fees set by ordinance or resolution of the Township Board of Supervisors for such permit shall be doubled.

   b. The doubling of the permit fee shall be required to reflect the additional expense incurred by the Township resulting from the need to inspect the property, issue any enforcement notices and/or process the application as soon as it is received.

   c. The payment of such increased permit fee shall not relieve any Person from complying with all requirements of this Ordinance or any other applicable Township ordinances or from any penalties or enforcement actions authorized by this Ordinance.

4. *Municipal Liability*. The granting of a Zoning Permit for the erection and/or use of a Structure, Building or Lot shall not constitute a representation, guarantee or warranty of any kind or nature by Middlesex Township, or an official or employee, thereof, of the safety of any structure, Building, use or other proposed plan from cause whatsoever, and shall create no liability upon or a course of action against such public official or employee for any damage that may be pursuant thereto.

(B) *Application*.

1. Every application for a Zoning Permit shall contain, in addition to other applicable requirements that may be specified in this Ordinance, the following information:

   a. The application shall be made by the Owner or lessee of any Building or Structure, or the agent of either; provided, however, that if the application is made by a Person other than the Owner or lessee, it shall be accompanied by a written authorization of the Owner or the qualified Person making an application, that the proposed work is authorized by this Owner. The full names and addresses of the Owner, lessee, Applicant, and of the responsible officers, if the Owner or lessee is a corporate body, shall be stated in the application.

   b. The Property Identification Number as it appears on the latest tax records.

   c. The required fee as established under Section 1.11 of this Article.

   d. *Site Plan Requirements*. A site plan drawn to scale, one (1) inch to equal one hundred (100) feet and signed by the Person responsible for such drawing. However, instances when a new Building or Structure is proposed and a stormwater plan is required, the site plan shall be prepared by a Registered Design Professional. In all cases, the site plan shall include the following:

      (1) North arrow, written and graphic, scale, and date of site plan.

(2) A location map showing the location of the proposed activity or development within the Township.

(3) The actual shape, dimensions, radii, angles, and area of the Lot on which the Structure is proposed to be erected, or the Lot in which it is situated if in an existing Building.

(4) The exact size and locations of the proposed Building, Structure or Structures on the Lot, or alteration of an existing Building or Structure, and of other existing Building or Structure on the same Lot.

(5) The dimensions of all yards in relation to the subject Building or Structures and the distances between such Structure and any other existing Building or Structures on the same Lot.

(6) The existing and intended use of all Building or Structures, existing or proposed, the use of land, and the number of families or dwelling units the Building is designed to accommodate.

(7) Such topographic or other information about the Building, Structure, the Lot, or neighboring Lot as may be necessary to determine that the proposed construction shall conform to the provisions of this Ordinance.

(8) Proposed access driveway(s) showing all pertinent details including but not limited to driveway type, slope, property setbacks, connecting public roadway name, number and posted speed limit, drainpipes, culverts, property lines, width, type of surface, and clear sight distances. Proof of a Highway Occupancy (including a Minimum Use Driveway) Permit is required for access off state-owned Rights-of-Way.

(9) The location of all existing Streets, drives, or other accessways.

(10) The location of surface water bodies, the 100-year floodplain, and jurisdictional wetlands.

(11) Other information as may be necessary to determine compliance with this Ordinance and all other Township ordinances and codes.

2. *Additional Requirements for all Commercial and Industrial Uses*. In addition to the above applicable requirements, the following information shall also be provided for commercial and industrial uses:

a. A location map showing the tract to be developed, zone boundaries, adjoining tracts, significant natural features, and Streets for a distance of two hundred (200) feet from all tract boundaries.

b. A site plan of the Lot, showing the location of all existing and proposed Buildings, Structures, driveways, parking Lots showing access drives, circulation patterns, curb cut accesses, parking stalls, access from Streets, screening fences and walls, waste disposal fields or other methods of sewage disposal, other construction features on the Lot, and the location of all topographical features.

c. A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, water

pollution, vibration, fire hazards, safety hazards or the emission of any potentially harmful or obnoxious matter or radiation.

d. Evidence that the disposal of materials and wastes shall be accomplished in a manner that complies with state and federal regulations. Should the nature of the materials used or wastes generated change significantly, either in type or amount, the Owner shall so inform the Zoning Officer and shall provide additional evidence demonstrating continued compliance with the requirements of this Article.

e. Designation of how sanitary sewage and stormwater shall be disposed, and water supply obtained.

f. The proposed number of shifts to be worked and the maximum number of employees on each shift.

g. Where Use by more than one firm is anticipated, a list of firms which are likely to be located in the center, their GFA, and estimated number of employees.

3. The Zoning Permit application and all supporting documentation shall be made in duplicate. On the issuance of a Zoning Permit, the Township shall return one (1) copy of all filed documents to the Applicant.

(C) *Review and Issuance*.

1. The Township shall after the filing of a complete and properly prepared application, either issue or deny a Zoning Permit. If a Zoning Permit is denied, the Township shall state in writing to the Applicant the reasons for such denial, and the Applicant shall be informed of his right to appeal to the Zoning Hearing Board.

2. The Zoning Officer may call upon other Township staff and/or Township-appointed consultants in the review of submitted materials for applications.

3. No Zoning Permit shall be issued unless the proposed activity is in full conformity with all the provisions of this Ordinance, and the following:

a. Any conditions imposed upon the site or upon the Use by the Zoning Hearing Board or Board of Supervisors;

b. Any recorded Subdivision or Land Development Plan; and

c. The requirements of other applicable Township ordinances and codes.

4. No Zoning Permit shall be issued for any Structure upon a Lot without access to a Street or Highway.

5. *Conditions of Permit*.

a. No Zoning Permit shall be issued until the required fees prescribed under Section 1.11 of this Article shall be paid to the Township. The payment of fees under this Article shall not relieve the Applicant or holder of said Zoning Permit from payment of other fees that may be required by this Ordinance or by any other ordinances or law.

b. The Zoning Permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel, or set aside any of the provisions of this Ordinance, except as stipulated by the Zoning Hearing Board.

c. All work or uses shall conform to the approved application and plans for which the Zoning Permit has been issued, as well as the approved Site Plan or Land Development Plan.

6. Every Zoning Permit shall expire after one (1) year from the date of issuance. If no zoning amendments or other codes or regulations affecting subject property have been enacted in the interim, the Township may authorize in writing the extension of either above periods of an additional six (6) months, following which no further work is to be undertaken without a new Zoning Permit. Such request shall be made in writing to the Zoning Officer.

7. The Applicant shall prominently display all approved Zoning Permits on the subject property during construction, renovation, reconstruction, repair, remodeling, or the conduct of other site improvements. The Applicant shall display the Zoning Permit within five (5) days of permit issuance or prior to the commencement of actual work on the site, whichever occurs first. The Applicant shall continuously display the Zoning Permit until the site receives its Certificate of Use.

8. *Revocation of Permit*. A Zoning Permit for any Structure or Use shall be revoked by the Zoning Officer or authorized representative if the holder of such permit has failed to comply with the requirements of this Ordinance or with any conditions attached to the issuance of the permit. Upon revocation of a permit, the holder may also be subject to the enforcement remedies and penalties provided by this Ordinance, by the other provisions of Township enacted ordinances, and by state and federal law.

(D) *Temporary Uses*.

1. The Township recognizes that there are certain uses, of a temporary nature, which are generally beneficial to the Township and its residents, such as:

a. The erection of a seasonal tent from which flowers, plants, produce, Christmas trees or fireworks are sold prior to observed holidays (permits evaluation shall consider impacts to the required parking, i.e., number of spaces reduced based on location and placement of temporary tent Structure.)

b. Temporary Signs per Article 5 of this Ordinance.

c. Dumpsters or storage pods.

d. Construction job site office trailers.

2. It is the intention of the Township to allow such temporary uses in accordance with the requirements of this Ordinance.

3. Where the proposed temporary Use is permitted within the zoning district, the Applicant shall apply to the Zoning Officer for a Zoning Permit. Any Zoning Permit shall specify the dates upon which the temporary Use may be operated, the temporary Structures which may be erected, and the Temporary Signs which may be erected.

4. The Zoning Hearing Board, by Special Exception, may authorize a temporary use in a district where such Use is not authorized if the Applicant meets the general requirements for

a Special Exception and demonstrates evidence of the temporary Use requirements. If the Applicant demonstrates to the satisfaction Zoning Hearing Board that its application meets all five (5) of the below criteria, the Zoning Hearing Board may, by Special Exception, authorize each such temporary Use. The decision of the Zoning Hearing Board shall identify the specific dates upon which the Use may be conducted and the specific tract or portion of the tract upon which the temporary Use may be conducted. Temporary uses may not exceed fifteen (15) days at any single time or thirty (30) days in any calendar year.

5. The Applicant for a temporary use, shall present evidence of the following:

   a. Adequate off-street parking is provided.

   b. Any signs are temporary in nature and do not exceed the number or area which would be permitted for a permanent use.

   c. Other facilities, including but not limited to sewage disposal facilities and trash disposal are available for persons reasonably anticipated to attend the temporary Use.

   d. A plan for addressing traffic to be generated by the temporary use. If necessary, the Applicant shall arrange for the provision of fire police or other persons to direct traffic to the temporary off-street parking facilities.

   e. The temporary use shall contribute to the welfare of the Township and its residents, and shall not adversely affect the health, safety or welfare of adjoining residents or the uses permitted within the zone in which the temporary Use is proposed.

6. Failure to cease operation on the date specified in the temporary Zoning Permit or failure to remove all temporary Structures and Temporary Signs shall constitute a violation of this Ordinance.

Section 1.10 Zoning Certification Letter

(A) A zoning certification letter shall be issued upon a request to certify the correct zoning classification and if the proposed use is permitted within the zoning district(s).

(B) Requests for a zoning certification letter shall be accompanied by a development plan, as defined by this Ordinance, when, in the opinion of the Zoning Officer, such information is required to accurately certify the requested documentation.

(C) *Payment of Fees*. No zoning certification letter shall be issued until the fees prescribed under Section 1.11 of this Ordinance are paid to the Township.

Section 1.11 Fees

(A) The Board of Supervisors may, by resolution, establish fees for the administration of this Ordinance. All fees shall be determined by a schedule that is made available to the general public. The Board of Supervisors may reevaluate the fees schedule and make necessary alterations to it. Such alterations shall not be considered an amendment to this Ordinance and may be adopted at any public meeting of the Board of Supervisors.

(B) Such fees shall be payable to the Township. Until all applicable fees, charges and expenses have been paid in full, the applications shall be considered incomplete, and no action shall be taken on any application or appeal.

Section 1.12 Violations and Penalties

(A) Any Person, partnership or corporation who or which has violated the provisions of this Ordinance or of the MPC, as amended, upon being found liable thereof in a civil enforcement proceeding commenced by the Township, shall pay a judgment of not less than one hundred dollars ($100.00) but no more than five hundred dollars ($500.00) plus court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied, or 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 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 (5th) 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 this Zoning Ordinance shall be paid over to Township.

(B) The Court of Common Pleas, upon petition, may grant an order to stay, upon cause shown, tolling the per diem fine, pending a final adjudication of the violation and agreement.

(C) Nothing contained in this Ordinance shall be construed or interpreted to grant any Person or entity other than the Township the right to commence any action for enforcement to this Ordinance.

Section 1.13 Appeals and Applications

(A) An appeal or application for an amendment or variance from the terms of this Ordinance shall be filed with the Zoning Officer and shall contain the following information:

1. The name, address, and contact information of the Applicant.

2. The name, address, and contact information of the Owner of the real estate to be affected by such proposal.

3. A brief description and location of the real estate to be affected by such proposal, including the Property Identification Number

4. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present Use.

5. A statement of the Article of this Ordinance under which the appeal or application is filed and reasons why it should be granted or a statement of the Article of this Ordinance governing the situation in which the alleged erroneous ruling is being appealed and reasons for the appeal.

6. An accurate description of the present improvements and the additions intended to be made under this application, indicating the size and use of such proposed improvements and general construction thereof. In addition, there shall be attached a site plan of the real estate to be affected, as required to accompany applications for permits as outlined in Section 1.09.

Section 1.14 Zoning Hearing Board

(A) *Creation and Appointment*.

1. *Members*. Pursuant to Article IX of the MPC, the Board of Supervisors does hereby create a Zoning Hearing Board and appoint five (5) members who shall be residents of the Township. Members of the Zoning Hearing Board shall be appointed by resolution of the Board of Supervisors. Their terms of office shall be five (5) years and shall be so fixed that the term of office of one (1) member shall expire each year. Members of the Zoning Hearing Board shall hold no other office, elected, or appointed, in the Township.

2. *Alternates*. Pursuant to Article 903(b) of the MPC, the Township may appoint by resolution at least one (1) but no more than three (3) residents of the Township to serve as alternate members of the Zoning Hearing Board. The term of office of an alternate member shall be three (3) years. Alternates shall hold no other office, elected, or appointed, in the Township.

(B) *Removal of Members*. Any Zoning Hearing Board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors which appointed the member, taken after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

(C) *Organization of Zoning Hearing Board*. The Zoning Hearing Board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Zoning Hearing Board, but where two (2) members are disqualified from acting in a particular matter, the remaining member may act for the Zoning Hearing Board. The Zoning Hearing Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Zoning Hearing Board as provided in Section1.14(E). The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure, consistent with ordinances of the Township and laws of the Commonwealth of Pennsylvania. The Zoning Hearing Board shall keep full public records of its business and shall submit a report of its activities to the Board of Supervisors as requested.

(D) *Expenditures for Services*. Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors, but in no case shall it exceed the rate of compensation authorized to be paid to members of the Board of Supervisors.

(E) *Hearings*. A hearing conducted by the Zoning Hearing Board shall be held within sixty (60) days from the date of the Applicant's request unless the Applicant has agreed in writing to an extension of time. The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements.

1. *Notice*. Public Notice shall be given, and written notice shall be given to the Applicant, the Township Secretary, the Township Planning Commission, and to any Person who has made timely request for the same. Written notices shall be given at such time and in such a manner as shall be prescribed by the Zoning Hearing Board and the requirements of the MPC 53 P.S. §10101 et seq., provided that the notices conform to the following:

   a. Written notices shall state the time, date, and location of the proposed hearing, along with a description of the nature of the of the matter to be considered.

b. Written notice shall be conspicuously posted on the affected tract of land at least seven (7) calendar days prior to the hearing.

c. At least seven (7) business days prior to the hearing, the Applicant shall provide written notice by U.S. Mail to all Landowners within two hundred (200) feet of the affected tract of land. Landowners are determined by the then-current Cumberland County tax records. Provided, however, that failure to give the notice as required by this Article shall not invalidate any action taken by the Zoning Hearing Board.

2. *Conduct of Hearing*. The hearings shall be conducted by the Zoning Hearing Board, or the Zoning Hearing Board may appoint any member as a hearing officer. The decision, or where no decision is called for, the findings shall be made by the Zoning Hearing Board, but the parties may waive decision or findings by the Zoning Hearing Board and accept the decision or findings of the hearing officer as final.

a. The parties to the hearing shall be Middlesex Township and any Person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any other Person including civic, or community organizations permitted to appear by the Zoning Hearing Board. The Zoning Hearing Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing.

b. The chairperson of the Zoning Hearing Board or the hearing officer presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

c. 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 adverse witnesses on all relevant issues.

d. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

e. The Zoning Hearing Board or the hearing officer shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the Applicant and the Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is ordered by the Zoning Hearing Board or hearing officer. It shall be paid by the Person appealing from the decision of the Zoning Hearing Board if such appeal is made, and in either event, the cost of additional copies shall be paid by the Person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.

f. The Zoning Hearing Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

3. *Decision*.

a. The Zoning Hearing Board or the hearing officer shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) calendar days after the last hearing before the Zoning Hearing Board or hearing officer.

b. Each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons, therefore. Conclusions based on any provisions of this act or of any ordinance, rule, or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

c. If the hearing is conducted by a hearing officer, and there has been no stipulation that the officer's decision or findings are final, the Zoning Hearing Board shall make its report and recommendations available to the parties within forty-five (45) calendar days, and the parties shall be entitled to make written findings to the Zoning Hearing Board prior to final decision or entry of findings, and the Zoning Hearing Board's decision shall be entered no later than thirty (30) calendar days after the decision of the hearing officer.

d. Where the Zoning Hearing Board has power to render a report and the Zoning Hearing Board or the hearing officer as the case may be, fails to render the same within the period required by this subsection, or fails to hold the required hearing within sixty (60) calendar days from the date of the Applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the Applicant unless the Applicant has agreed in writing to an extension of time.

e. When a decision has been rendered in favor of the Applicant because of the failure of the Zoning Hearing Board to meet or render a decision, the Zoning Hearing Board shall give Public Notice of the said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in Section1.15(E)1. If the Zoning Hearing Board fails to provide such notice, the Applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to urge that such a decision is erroneous.

f. A copy of the final decision, or where no decision is called for, of the findings shall be delivered to the Applicant personally or mailed to them not later than the next business day following its date. To all other persons who have filed their name and address with the Zoning Hearing Board not later than the last day of the hearing, the Zoning Hearing Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

(F) *Jurisdiction*. The Zoning Hearing Board shall have exclusive Jurisdiction to hear and render final adjudications in the following matters:

1. Substantive challenges to the validity of any land Use ordinance, except those brought before the Board of Supervisors pursuant to Sections 609.1 and 916.1 of the MPC.

2. Appeals from the Determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any Nonconforming Use, Structure or Lot.

3. Appeals from a Determination by the Zoning Officer or the Township Engineer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land Use ordinance.

4. Applications for variances from the terms of this Ordinance pursuant to Article 910.2 of the MPC.

5. Applications for Special Exceptions under this Ordinance pursuant to Article 912.1 of the MPC.

6. Appeals from the Zoning Officer's Determination under Article 916.2 of the MPC.

7. Appeals from the Determination of the Zoning Officer or the Township Engineer in the administration of any land Use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving applications under Article V or VII of the MPC.

(G) *Board of Supervisors*. The Board of Supervisors shall have exclusive Jurisdiction to and render final adjudications in the following matters:

1. All applications for approvals of planned residential development under Article VII of the MPC pursuant to the provisions of Section 702 of the MPC.

2. All applications pursuant to Section 508 of the MPC, for approval of Subdivisions or Land Developments under Article V of the MPC.

3. Applications for Conditional Use under the express provisions as specified under Section 1.15 of this Ordinance.

4. Applications for a curative amendment to this Ordinance or pursuant to Sections 609.1 and 916.1(a) of the MPC.

5. All petitions for amendments to land use ordinances, pursuant to the procedures set forth in Article 609 of the MPC.

6. Appeals from the Determination of the Zoning Officer or the Township Engineer in the administration of any land Use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to applications for Land Development under Articles V and VII of the MPC. Where such Determination relates only to development not involving an Article V or VII application, the appeal from such Determination of the Zoning Officer or the Township Engineer shall be to the Zoning Hearing Board pursuant to this Article. Where the applicable land Use ordinance vests jurisdiction for final administration of Subdivision and Land Development applications in the Planning Commission, all appeals from determinations under this subsection shall be to the Planning Commission, and all appeals from the decision of the Planning Commission shall be to court.

(H) *Zoning Hearing Board Functions*.

1. *Variances*. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the Applicant. The Zoning Hearing Board may grant a variance provided the following findings are made where relevant in each case.

a. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of Lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Ordinance in the zoning district in which the property is located.

b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is, therefore, necessary to enable the reasonable use of the property.

c. That such necessary hardship has not been created by the appellant.

d. That the variance, if authorized, shall not alter the essential character of the zoning district in which the property is located, nor substantially or permanently impair the appropriate Use or development of an adjacent property, nor be detrimental to the public welfare.

e. That the variance, if authorized, shall represent the minimum variance that shall afford relief and shall represent the least modification possible of the regulation in issue.

f. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this act and this Ordinance.

g. *Township Planning Commission Review*. The Township Planning Commission shall be provided with an opportunity to review and provide comment and recommendations on a zoning variance application. However, such review and recommendation shall not delay the convening of a hearing on the application to be heard by the Zoning Hearing Board and the applicant shall be provided reasonable notice of the date, time, and location of the meeting of the Planning Commission where the application will be reviewed. The comments and recommendations of the Planning Commission shall be provided in writing to the Zoning Hearing Board and the applicant by the Zoning Officer at or by the time of the first hearing on the application before the Zoning Hearing Board.

2. *Special Exceptions*. See Section 1.15 of this Ordinance.

(I) *Parties Appellant Before Zoning Hearing Board*. Appeals under Section 1.14 may be filed with the Zoning Hearing Board in writing by the landowner affected or any officer or agency of the Township, or any Person aggrieved. Requests for a variance under Section1.14.(H).1 and for Special Exceptions under Section 1.15 of this Ordinance may be filed with the Zoning Hearing Board by any landowner or any tenant with the permission of such landowner.

(J) *Time Limitations*. The time limitations for raising certain issues and filing certain proceedings with the Zoning Hearing Board shall be the following:

1. No Person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after any application for development, preliminary or final, has been approved by an appropriate Township officer, agency, or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such Person alleges

and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such Person has succeeded to his interest after such approval he shall be bound by the knowledge of his predecessor in interest.

2. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan, or from an adverse decision by a Zoning Officer on a challenge to the validity of this Ordinance or Zoning Map shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

(K) *Stay of Proceedings*. Upon filing of any proceeding with the Zoning Hearing Board and during its pendency before the Zoning Hearing Board all Land Development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the Applicant, the Applicant may petition the court having jurisdiction of zoning appeals to order such persons to post a bond as a condition to continuing the proceedings before the Zoning Hearing Board. The question of whether such petition should be granted and the amount of the bond shall be within the sound discretion of the court.

Section 1.15 Special Exception Use Procedures

(A) *General*.

1. It is the intent of this Section to provide special controls and regulations for particular uses which may, under certain conditions, be conducted within the various zoning districts established in Article 2 of this Ordinance.

2. Where the Board of Supervisors has stated, under Article 3 of this Ordinance, Special Exceptions to be granted or denied by the Zoning Hearing Board pursuant to the standards and criteria specified below, the Zoning Hearing Board shall hear and decide requests for such Special Exceptions in accordance with such standards and criteria. In granting a Special Exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance.

(B) *Application*. Each app1ication for a Special Exception use shall be accompanied by a proposed Site Plan as specified under Section 1.09 of this Ordinance.

(C) *Referral to Middlesex Township Planning Commission*.

1. In its review of the Special Exception application, the Township Planning Commission shall take into consideration the public health, safety, and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, and may recommend appropriate conditions and safeguards as may be required in order that the result of its recommendation may, to the maximum extent possible, further the expressed intent of this Ordinance and the accomplishment of the following objectives in particular.

a. That all proposed structures, equipment, or material shall be readily accessible for fire and police protection.

b. That the proposed use shall be of such location, size, and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.

c. That, in addition to the above, in the case of any use located in, or directly adjacent to, a Residential District:

(1) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access Streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, said Residential District or conflict with the normal traffic of the neighborhood; and

(2) The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

(3) *Planning Commission Recommendation*. Within thirty (30) calendar days of the submission of the special exception application to the Township, the Planning Commission shall forward its written recommendations to the Zoning Hearing Board. The Commission may recommend approval, disapproval, or modification. In the case of disapproval or modification the Commission shall set forth the reasons for the recommendation in writing.

(D) *Standards and Criteria*. In any instance where the Zoning Hearing Board is required to consider a Special Exception to this Ordinance in accordance with the provisions of this Ordinance, the Zoning Hearing Board shall, among other things, consider the following standards and conditions:

1. That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.

2. That, in addition to the above, in the case of any use located in, or directly adjacent to, a residentially zoned district:

a. The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access Streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, said residentially zoned district or conflict with the normal traffic of the neighborhood; and

b. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the

use will not hinder or discourage the appropriate development and use of adjacent land and buildings/

3. That the suitability of the property for the Use desired and assure itself that the proposed change is consistent with the spirit, purpose, and intent of this Ordinance;

4. That the proposed use shall not substantially injure or detract from the use of neighboring property or the character of the neighborhood and that the use of the property adjacent to the area included in the proposed change or plan is adequately safeguarded;

5. That the proposed use shall serve the best interests of the Township, the convenience of the community (where applicable), and the public welfare;

6. That the effect of the proposed use upon the logical, efficient, and economical extension of public services and facilities such as public water, sewers, police, and fire protection, and public schools;

7. That the suitability of the proposed location of an industrial or commercial use with respect to probable effects upon roadway traffic and assure adequate access arrangements to protect all Streets from undue congestion and hazard;

9. Impose such conditions, in addition to those required, as are necessary to assure that the intent of this Ordinance is complied with, which conditions may include, but are not limited to, harmonious design of Buildings, planting and its maintenance as a sight or sound screen, the minimizing of noxious, offensive or hazardous elements, adequate standards of parking and sanitation; and

10. Imposed such conditions that consider the health, safety, and welfare of the general public including but not limited to parking, lighting, traffic, sewer and water needs, noise and others as may be deemed appropriate by the Zoning Hearing Board.

(E) *Zoning Hearing Board Action*. The Zoning Hearing Board shall conduct a public hearing on each application for a Special Exception use in accordance with Section 1.14(E) of this Ordinance.

(F) *Conditions and Safeguards of Special Exception Permits*. The Zoning Hearing Board may require the Special Exception use permits be periodically renewed. Such renewal shall be granted upon a determination by the Zoning Hearing Board to the effect that such conditions as may have been prescribed by the Zoning Hearing Board in conjunction with the issuance of the original permit have not been or are being no longer complied with. In such cases, a period of sixty (60) days shall be granted the applicant for full compliance prior to the revocation of said permit.

(G) *Effect of Special Exception Approval*. Any use for which a Special Exception use permit may be granted shall be deemed to be a conforming use in the zoning district in which such use is located provided that such permit shall be deemed to affect only the Lot or portion thereof for which such permit shall have been granted.

Section 1.16 Conditional Use Procedures

(A) *General*.

1. It is the intent of this Section to provide special controls and regulations for particular uses which may, under certain conditions, be conducted within the various zoning districts established in Article 2 of this Ordinance.

2. Where the Board of Supervisors has stated, under Article 3 of this Ordinance, Conditional Uses to be granted or denied by the Board of Supervisors pursuant to the standards and criteria specified below, the Board of Supervisors shall hear and decide requests for such Conditional Uses in accordance with such standards and criteria. In granting a Conditional Uses, the Board of Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance.

(B) *Application*. Each application for a Conditional Use shall be accompanied by a proposed Site Plan as specified under Section 1.09 of this Ordinance.

(C) *Standards and Criteria*. Each Applicant shall demonstrate compliance with the following standards and criteria:

1. The proposed use shall be consistent with the purpose and intent of this Ordinance and all other applicable Township ordinances and codes.

2. The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties;

3. The proposed use shall not affect a change in the character of the subject property's neighborhood;

4. Adequate public facilities (e.g., schools, fire, police and ambulance protection, sewer, water, and other utilities, vehicular access, etc.) are available to serve the proposed use;

5. That the use of adjacent land and Buildings shall not be discouraged and the value of adjacent land and Buildings shall not be impaired by the location, nature and Height of Buildings, walls and fences;

6. That the use shall have proper location with respect to existing or future Streets, and shall not create traffic congestion or cause nonresidential traffic on local residential Streets;

7. The proposed use shall comply with those criteria specifically listed in Article 3 of this Ordinance. In addition, the proposed use shall comply with all other applicable regulations of this Ordinance; and

8. The proposed use shall not substantially impair the integrity of the Township's Comprehensive Plan.

(D) *Conditions*. The Board of Supervisors in approving conditional use applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same zone. These 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 Article.

(E) *Site Plan Approval*. Any site plan presented in support of the conditional use pursuant to paragraph (B) shall become an official part of the record for said conditional use. Approval of any conditional use shall also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the Applicant shall revise the site plan prior to the issuance of a Zoning Permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan, shall require the obtainment of another conditional use approval.

(F) *Hearing Procedures*.

1. Before voting on the approval of a conditional use, the Board of Supervisors shall, within sixty (60) days from receipt of the applicant's application, hold a public hearing thereon, pursuant to Public Notice. The Board of Supervisors shall submit each such application to the Township Planning Commission at least thirty (30) days prior to the hearing on such application to provide the Township Planning Commission an opportunity to submit recommendations. If, after any public hearing held upon an application, the proposed application is revised, the Board of Supervisors shall hold another public hearing, pursuant to Public Notice, before proceeding to vote on the application.

2. Public Notice, as defined herein, and written notice shall be given to the Applicant, the Zoning Officer, such other persons as the Board of Supervisors shall designate by ordinance, and to any Person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by Ordinance or, in the absence of Ordinance provisions, by rules of the Board of Supervisors. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.

3. The Board of Supervisors may prescribe reasonable fees with respect to hearings. Fees for said hearings may include compensation for the secretary, stenographer, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses, expenses for engineering, architectural, or other technical consultants, or expert witness costs.

4. The parties to the hearing shall be the Township, any Person affected by the application who has made timely appearance of record before the Board of Supervisors, and any other Person, including civic or community organizations permitted to appear by the Board of Supervisors. The Board of Supervisors shall have power to require that all persons who wish to be considered parties enter appearance in writing on forms provided by the Board of Supervisors for that purpose.

5. The Chairperson or Acting Chairperson of the Board of Supervisors shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and paper, including witnesses and documents requested by the parties.

6. 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 adverse witnesses on all relevant issues.

7. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

8. The Board of Supervisors may keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the Applicant and the Board of Supervisors. The cost of the original transcript shall be paid by the Board of Supervisors if the transcript is ordered by the Board of Supervisors; or shall be paid by the Person appealing the decision of the Board of Supervisors if such appeal is made, and in either event, the cost of additional copies shall be paid by the Person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.

9. The Board of Supervisors shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity

for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

10. The hearing shall be conducted by the Board of Supervisors or the Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where there is no decision, the findings shall be made by the Board of Supervisors. However, the appellant or the Applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the Board of Supervisors and accept the decision or findings of the hearing officer as final.

11. The Board of Supervisors shall render a written decision or, when no decision is called for, make written finds 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, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

12. Where the Board of Supervisors fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in this subsection, the decision shall be deemed to have been rendered in favor of the Applicant unless the Applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the Applicant because of the failure of the Board of Supervisors to meet or render a decision as hereinabove provided, the Board of Supervisors shall give Public Notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by the Public Notice requirements of this Ordinance. If the Board of Supervisors shall fail to provide such notice, the Applicant may do so.

(G) *Time Limitation*.

1. If a conditional use is granted, the necessary permit shall be secured and the authorized action begun within two (2) years after the date when the conditional use is finally granted, and the Building 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 at any time, upon application in writing, extend either of these deadlines.

2. Should the appellant or Applicant fail to obtain the necessary permits within said two (2) year period or having obtained the permit should the fail to commence work thereunder within such two (2) year period, it shall be conclusively presumed that the appellant or Applicant has waived, withdrawn, or abandoned his application, and all approvals and permits granted to him shall be deemed automatically rescinded by the Board of Supervisors.

3. Should the appellant commence construction or alternation within said two (2) year period, but should he 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 such three (3) year period, and if the Board of Supervisors further finds that conditions have altered or 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 before the Board, the granting of a timetable associated with the request which would supersede the deadlines imposed in paragraphs (F).1.-3. In so doing, the Applicant shall demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a timetable under this section, the Board shall establish and bind a definite time frame for (1) issuance of a Zoning Permit, and (2) completion of construction of the project.

Section 1.17 Enforcement Notification

(A) Whenever the Zoning Officer or other authorized Township representative determines that there are reasonable grounds to believe that there has been a violation of any provision of this Ordinance, or of any regulation adopted pursuant thereto, the Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in this Article.

(B) The enforcement notice shall be sent to the Owner of record of the parcel on which the violation has occurred, to any Person who has filed a written request to receive enforcement notices regarding that parcel, and to any other Person requested in writing by the Owner of record.

(C) An enforcement notice shall state at least the following:

1. The name of the Owner of record and any other Person against whom the Township intends to take action.

2. The location of the property in violation.

3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance.

4. The date before which the steps for compliance shall be commenced, not to exceed thirty (30) days from receipt of notice, and the date before which the steps shall be completed.

5. An outline of remedial action which, if taken, shall affect compliance with the provisions of this Ordinance, or any part thereof, and with any regulations adopted pursuant thereto.

6. A statement indicating that the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time, in accordance with procedures set forth elsewhere in this Ordinance.

7. A statement indicating that failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

(D) In any appeal of an enforcement notice to the Zoning Hearing Board, the Township shall have the responsibility of presenting its evidence first.

(E) Any filing fees paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.

(F) *Causes of Action*. In case any Building, Structure, landscaping, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of any ordinance enacted by the Township or prior enabling laws, the Board of Supervisors or, with the

approval of the Board of Supervisors, an officer of the Township, or any aggrieved Owner or tenant of real property who shows that his property or Person shall be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such Building, Structure, landscaping or land, or prevent, in or about such premises, any act, conduct, business or Use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Township at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint to the Board of Supervisors. No such action may be maintained until such notice has been given.

(G) *Supplementary Provisions*. No Zoning Permit, Certificate of Use, or any other permit referenced in this Ordinance shall be issued with respect to a property unless the Owner(s) of that property is/are in compliance with all other ordinances, laws, and regulations of federal and state government, the Township, and Middlesex Township Municipal Authority. Additionally, no such permit shall be issued where a charge for drinking water, wastewater, and stormwater Use, real estate taxes, or other municipal charges associated with the Use or ownership of the property have not been paid and are past due.

Section 1.18 Amendments

(A) *General*.

1. *Board of Supervisors Action*.

   a. The Board of Supervisors may, from time to time, amend, supplement, or repeal any of the regulations and provisions of this Ordinance.

   b. Before voting on the enactment of an amendment, the Board of Supervisors shall hold a Public Hearing thereon, pursuant to Public Notice. In addition, if the proposed amendment involves a Zoning Map change, notice of said Public Hearing shall be conspicuously posted by the Township at points deemed sufficient by the Township along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.

   c. In the case of an amendment other than that prepared by the Planning Commission, the Board of Supervisors shall submit each such amendment to the Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.

2. *Report of the Planning Commission*. In making such report on a proposed amendment, the Planning Commission shall make inquiry and recommendation concerning the items specified below:

   a. Concerning a proposed amendment to or change in the text of this Ordinance:

      (1) Whether such change is consistent with the aims and principles embodied in this Ordinance as to the particular zoning district(s) concerned.

      (2) Which areas, land uses, Structures and establishments in the Township shall be directly affected by such change, and in what way they shall be affected.

      (3) The indirect implications of such change in its effect on other regulations.

(4) Whether such proposed amendment is consistent with the aims of the Township Comprehensive Plan.

b. Concerning a proposed amendment involving a change in the Zoning Map:

(1) Whether the uses permitted by the proposed change would be appropriate in the area concerned.

(2) Whether adequate public school facilities and other public services exist or can be created to serve the needs of any additional residences likely to be constructed because of such change.

(3) Whether the proposed change is in accord with any existing or proposed plans in the vicinity.

(4) The effect of the proposed amendment upon the growth of the Township is envisaged by the Township's Comprehensive Plan.

(5) Whether the proposed amendment is likely to result in an increase or decrease in the total zoned residential capacity of the Township and the probable effect thereof.

3. *Referral to County Planning Commission*. The Board of Supervisors shall at least thirty (30) days prior to the Public Hearing, refer the proposed amendment to the Cumberland County Planning Commission for recommendations.

4. *Board of Supervisors Public Hearing*. By motion adopted at a public meeting of the Board of Supervisors, the Board of Supervisors shall fix the time and place of a Public Hearing on the proposed amendment pursuant to Public Notice.

5. If, after any Public Hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Board of Supervisor's shall hold another Public Hearing, pursuant to Public Notice, before proceeding to vote on the amendment.

6. Within thirty (30) days after enactment, a copy of the amendment to this Ordinance shall be forwarded to the county planning agency.

(B) *Procedure for Landowner Curative Amendments*.

1. A landowner who desires to challenge on substantive grounds the validity of this Ordinance or the Zoning Map or any provision thereof, which prohibits or restricts the Use or development of land in which the landowner's interest may submit a curative amendment to the Board of Supervisors with a written request that his challenge and proposed amendment be heard and decided as provided in Article 916.1 of the MPC. The curative amendment and challenge shall be referred to the Planning Commission, and the Cumberland County Planning Commission provided in MPC Section 609 and notice of the hearing thereon shall be given as provided in Articles 610 and 916.1 of the MPC.

2. The hearing shall be conducted in accordance with Article 908 of the MPC and all references therein to the Zoning Hearing Board shall, for purposes of this Article, be references to the Board of Supervisors. If the Township does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity of this Ordinance

and Zoning Map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.

3. The Board of Supervisors, if it determines that a validity challenge has merit, may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment that shall cure the challenged defects. The Board of Supervisors shall consider the curative amendments, plans, and explanatory material submitted by the landowner and shall consider:

   a. The impact of the proposal upon roads, sewer facilities, water supplies, schools, and other public service facilities.

   b. If the proposal is for residential Use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this Ordinance or Zoning Map.

   c. The suitability of the site for the intensity of Use proposed by the site's soils, slopes, woodlands, Wetlands, floodplains, aquifers, natural resources, and other natural features.

   d. The impact of the proposed Use on the site's soils, slopes. woodlands, Wetlands, floodplains, natural resources, and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development, and any adverse environmental impacts.

   e. The impact of the proposal on the preservation of agriculture and other land uses, which are essential to public health and welfare.

(C) *Procedure for Municipal Curative Amendments*.

1. If the Township determines that this Ordinance, or any portion hereof, is substantially invalid, it shall take the following actions:

   a. The Township shall declare by formal action, this Ordinance or portions hereof substantially invalid, and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days of such declaration and proposal, the Board of Supervisors shall:

      (1) By resolution, make specific findings setting forth the declared invalidity of this Ordinance which may include:

         (a) References to specific uses which are either not permitted or not permitted in sufficient quantity;

         (b) Reference to a class of Use or uses which requires revision; or,

         (c) Reference to this Ordinance which requires revisions.

      (2) Begin to prepare and consider a curative amendment to this Ordinance to correct the declared invalidity.

2. Within one hundred eighty (180) days from the date of the declaration and proposal, the Township shall enact a curative amendment to validate or reaffirm the validity of this

Ordinance pursuant to the provisions of Article 609 of the MPC, in order to cure the declared invalidity of this Ordinance.

3. Upon the initiation of the procedures, as set forth in Section 1.18(C)1, the Board of Supervisors shall not be required to entertain or consider any landowner's curative amendment filed under Article 609.1 of the MPC, nor shall the Zoning Hearing Board be required to give a report requested under Article 909.1 or 916.1 of the MPC subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by Section 1.18(C)1a(1). Upon completion of the procedures as set forth in Section 1.18(C)1 and Section 1.18(C)2, no rights to a cure pursuant to the provisions of Articles 609.1 and 916.1 of the MPC shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which there has been a curative amendment pursuant to this Article.

4. The Township, having utilized the procedures set forth in this Ordinance, may not again utilize said procedure for a period of thirty-six (36) months following the date of enactment of a curative amendment or reaffirmation of the validity of this Ordinance. Provided, however, if after the date of declaration and proposal there is a substantially new duty imposed upon the Township by virtue of a change in statute or a Pennsylvania Appellate Court decision to propose a curative amendment to this Ordinance to fulfill said duty or obligation.

(D) *Applicability of Ordinance Amendments*. When an application for either a Special Exception or a Conditional Use has been respectively filed with the Zoning Hearing Board or Board of Supervisors, and the subject matter of such application would ultimately constitute either a Subdivision or Land Development as defined in Article 6 of this Ordinance, no change or amendment of this Ordinance shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. Provided, further, should such an application be approved by either the Zoning Hearing Board or Board of Supervisors, as relevant, applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six (6) months or longer as may be approved by either the Zoning Hearing Board or the Board of Supervisors following the date of such approval in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed before either the Zoning Hearing Board or Board of Supervisors, as relevant. If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of MPC Section 508(1) through (4), and specifically to the time limitations of MPC Section 508(4) which shall commence as of the date of filing such land development or subdivision plan.

ARTICLE 2 ZONING DISTRICTS

Section 2.01 Establishment of Zoning Districts

The following zoning districts are hereby established in the Township.

Table 2.01, Zoning Districts

BASE ZONING DISTRICTS	SPECIAL OVERLAY DISTRICTS
CONSERVATION AND AGRICULTURAL DISTRICTS North Mountain Conservation District (NMC) Appalachian Trail Conservation District (ATC) Agriculture District (A) RESIDENTIAL DISTRICTS Low Density Residential District (R-1) Medium Density Residential District (R-2) Medium-High Density Residential District (R-3) High Density Residential District (R-4) MIXED USE DISTRICTS Mixed-Use Neighborhood District (MU-1) Mixed-Use Village District (MU-2) INSTITUTIONAL AND COMMERCIAL DISTRICTS Institutional District (INS) Commercial Highway District (C-1) Light Industrial-Commercial District (C-2) INDUSTRIAL DISTRICT Industrial District (I)	Airport Hazard Overlay District (AHO) Data Center Overlay District (DCO) Floodplain Conservation Overlay District (FCO) Riparian Buffer Overlay District (RBO) Redevelopment Opportunity Overlay District (ROO) Wellhead Protection Overlay District (WPO)

Section 2.02 Zoning Map

The base zoning districts established by Subparagraph 2.01 are delineated on the Township's official Zoning Map, which is adopted, and incorporated herein in its entirety, as part of this Ordinance.

(A) Promptly following enactment of this Ordinance, the Zoning Officer shall place the following legend on the official Zoning Map adopted as part of this Ordinance, the Township Board of Supervisors Chairperson shall execute the same on behalf of the Board of Supervisors and the Township Secretary shall attest to the same: "On <DATE>, by official action of Township Board of Supervisors, the map bearing this legend was adopted as the official Zoning Map of the Township by enactment of the Zoning Ordinance of Middlesex Township, Cumberland County, Pennsylvania."

(B) No changes of any nature shall be made in the official Zoning Map except in conformity with the procedures set forth in Section 1.18 Amendments of this Ordinance. Any unauthorized change of whatever kind by any Person or Persons shall be considered a violation of this Ordinance.

(C) A certified Zoning Map shall be filed with the Township Secretary, Township Planning Commission, and the Cumberland County Planning Commission.

Section 2.03 Rules for Interpretation of Zoning District Boundaries

Where uncertainty exists as to the boundaries of zoning districts as shown on the official Zoning Map, the following rules shall apply:

(A) Boundaries indicated as approximately following the centerlines of Streets, highways, and Alleys shall be construed to follow such centerlines.

(B) Boundaries indicated as approximately following the center of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

(C) Boundaries indicated as approximately following property lines or platted Lot lines, shall be construed as following such lines.

(D) Boundaries indicated as approximately following Township boundaries shall be construed as following Township boundaries.

(E) Boundaries that are in un-subdivided property or where a zoning district boundary divides a Lot shall be determined using the map scale as shown thereon.

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Section 2.04 North Mountain Conservation District (NMC)

(A) The purpose of the North Mountain Conservation District (NMC) is to (1) minimize the potential for erosion, sedimentation, and flooding; (2) protect future property owners from adverse conditions; and (3) protect and retain natural forested and steeply sloped resources within the North Mountain area of the Township. Development is discouraged and limited to single family dwellings that are serviced by on-Lot sewer and water systems and that have a minimal impact on natural features including the minimal removal of trees and natural vegetation to accommodate site development.

Many of the soils present in the NMC District are rated by the United States Department of Agriculture, Natural Resources Conservation Service Web Soil Survey as having severe limitations for uses such as septic tank absorption fields, dwellings with basements, and local roads and Streets. The Soil Survey indicates that a rating of severe means "soil properties are so unfavorable and so difficult to correct or overcome as to require major soil reclamation, special designs, or intensive maintenance."

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses.

2. All uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

(C) *Bulk and Area Regulations*. Table 2.04 specifies the district's bulk and area regulations.

(D) *Conservation Design*. The North Mountain Conservation Design standards specified Section 4.13 of this Ordinance shall apply.

Table 2.04, North Mountain Conservation District (NMC) Bulk and Area Regulations

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS						
	Min. Lot Size	Min. Lot Width	Max. Impervious Coverage	Minimum Yard Setbacks			Maximum Building Height
				Front	Side	Rear	
Agriculture	0 acres (no minimum)	200 ft.	10%	50 ft.	25 ft. each	50 ft.	100 ft.
Single-Family Detached Dwellings w/On Lot Water and Sewer	4 acres*	300 ft.	20%	50 ft.	25 ft. each	50 ft.	40 ft.
Residential Accessory Uses	As allowed by the permitted principal use.			50 ft.	25 ft. each	25 ft.	30 ft.
Public Parks, Playgrounds and Open Space	2 acres	150 ft.	20%	30 ft.	20 ft. each	30 ft.	40 ft.
All Other Permitted Uses as specified in Article 3, Table 3.02.1	4 acres	300 ft.	20%	75 ft.	50 ft. each	75 ft.	40 ft.

* All uses relying upon on-Lot disposal systems shall comply with the Middlesex Township On-Lot Management Ordinance.

Section 2.05 Appalachian Trail Conservation District (ATC)

(A) *Purpose*. The purpose of the Appalachian Trail Conservation District (ATC) is to preserve the natural, scenic, historic, and aesthetic values of the Appalachian National Scenic Trail and to conserve and maintain it as a public natural resource.

(B) *Authority*. The Pennsylvania Appalachian Trail Act (Act of Jun. 11, 2008, P.L. 175, No. 24) authorizes municipalities through which the Appalachian Trail passes to preserve the natural, scenic, historic, and esthetic values of the trail and to conserve and maintain it as a public natural resource. Such action shall include the adoption, implementation and enforcement of zoning ordinances as the governing body deems necessary to preserve those values.

(C) *Permitted Uses*. The permitted uses are those as specified in Article 3, Table 3.02.1 of this Ordinance: However, such uses are be permitted without the erection of new Buildings or Structures.

(D) *Prohibited Activities*. Unless specifically permitted to do so by the U.S. Department of Interior, National Park Service, the following activities are prohibited to be conducted in the ATC District:

1. Clearing of vegetation, other than (i) maintenance by a federal, state, or municipal agency, the Appalachian Trail Conservancy, or Trail Club (partnered with the ATC), and (ii) permissible timber harvesting as authorized in subsection (C).2 above.

2. Storage of hazardous/noxious materials.

3. Use of motor or wheeled vehicle traffic, except for agriculture, recreation, or forestry uses.

4. Construction of parking Lots, except for federal, state, county, or municipally owned Lots.

5. Construction of any type of permanent structure, except for federal, state, county, or municipally owned structures.

6. Installation of above-ground utilities including cell and wind towers.

Table 2.05, Appalachian Trail Conservation District (ATC) Bulk and Area Regulations

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS						
	Min. Lot Size	Min. Lot Width	Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
				Front	Side	Rear	
All Permitted Uses as specified in Article 3, Table 3.02.1*	4 acres	300 ft.	20%	75 ft.	50 ft. each	75 ft.	40 ft.

* Lot size subject to PADEP approval for on-Lot sewage disposal systems.

Section 2.06 Agriculture District (A)

(A) *Purpose*. The purpose of the Agriculture District (A) is to:

1. Protect and stabilize general agriculture as an ongoing economic activity within Middlesex Township by encouraging those land uses and activities that are agricultural in nature or act in direct support thereof;

2. Support landowners that want to continue the property's agricultural use and production or apply to attain "Preserved Farm" status through the Cumberland County Agricultural Conservation Easement Program;

3. Protect agriculture uses from incompatible uses that may conflict or interfere with normal and customary agricultural practices within the district;

4. Minimize the amount of land consumed for nonagricultural purposes by encouraging nonagricultural development to occur on smaller parcels;

5. Provide for the continuation of Agricultural Use operations; and

6. Retain the core area of farmland in the Township that strongly contributes to its rural character.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses.

2. All uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

3. *Conservation Plan*. Any agriculture, horticulture or forestry-related uses which involves earthmoving activities, or the commercial harvesting or timbering of vegetation, shall follow the current Ordinance 102 and NPDES Phase II Requirements for Construction Activities (Ordinance 102 Erosion Control of Title 25 Rules and Regulations, Department of Environmental Protection).

(C) *Bulk and Area Regulations*. Table 2.06 specifies the District's bulk and area regulations.

(D) *Pennsylvania Right to Farm Law Notice*. All lands within the Agriculture District (A) are located within an area where land is used for commercial agricultural production, Owners, residents, and other users of this property may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including, but not limited to, noise, odors, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides, and pesticides. Owners, occupants, and users of this property should be prepared to accept such inconveniences, discomfort, and possibility of injury from normal agricultural operations, and are hereby put on official notice that Section 4 of Pennsylvania Act 133 of 1982, "The Right to Farm Law", may bar them from obtaining a legal judgement against such normal agricultural operations. From the effective date of this Ordinance, all subsequent subdivision plans submitted within this District shall require a note which duplicates this Section, and which shall be transferred to the purchaser by the seller.

Table 2.06, Agriculture District (A) Bulk and Area Regulations

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS						
	Min. Lot Size	Min. Lot Width	Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
				Front	Side	Rear	
Agriculture	0 acres (no minimum)	200 ft.	10%	40ft.	20 ft. each	40 ft.	100 ft.
Single-Family Detached Dwellings w/On Lot Water and Sewer*	60,000	200 ft.	35%	40 ft.	20 ft. each	40 ft.	40 ft.
Accessory Uses	As allowed by the permitted principal use.			50 ft.	25 ft. each	25 ft.	30 ft.
Public Parks, Playgrounds and Open Space	30,000 square feet	100 ft.	20%	25 ft.	15 ft. each	25 ft.	405 ft.
All Other Permitted Uses as specified in Article 3, Table 3.02.1	5 acres	300 ft.	20%	40 ft.	40 ft. each	45 ft.	40 ft.

* Lot size subject to PADEP approval for on-Lot sewage disposal systems.

Section 2.07 Low Density Residential District (R-1)

(A) *Purpose*.

The Low-Density Residential District (R-1) comprises areas of the Township whose predominant land uses are agriculture and low density residential existing Lot sizes of approximately one and one half (1 ½) acres or larger. The purpose of the district is to protect and stabilize these areas' essential characteristics, minimize conflicting land uses detrimental to agricultural uses and limit development that requires highways and other public services and facilities in excess of those required by agriculture and low density residential uses.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses.

2. All uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

(C) *Bulk and Area Regulations*. Table 2.07 specifies the district's bulk and area regulations.

(D) *Conservation Subdivision Design*. As of the enactment date of this Ordinance, in areas where public water and sewer utilities are available (or provided) for on Lots having a total area of twelve (12) or more acres, the Conservation Subdivision Design standards specified under Section 4.06 of this Ordinance shall be used to encourage preservation of Open Space and natural habitat while allowing increased development density. Lots less than twelve (12) acres must meet the bulk and area regulations specified in Table 2.07.

Table 2.07, Low Density Residential District (R-1) Bulk and Area Regulations

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS						
	Min. Lot Size	Min. Lot Width	Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
				Front	Side	Rear	
Agriculture	0 acres (no minimum)	200 ft.	10%	40 ft.	20 ft. each	40 ft.	100 ft.
Single-Family Detached Dwellings w/On Lot Water and Sewer	60,000 square feet*	200 ft.	35%	40 ft.	20 ft. each	40 ft.	40 ft.
Single Family Detached Dwellings w/Public Water or Public Sewer	40,000 square feet	125 ft.	35%	35 ft.	15 ft. each	35 ft.	40 ft.
Single Family Detached Dwellings w/Public Water and Public Sewer	15,000 square feet	100 ft.	35%	35 ft.	15 ft. each	35 ft.	40 ft.
Accessory Uses	As allowed by the permitted principal use.			40 ft.	10 ft. each	20 ft.	30 ft.
Public Parks, Playgrounds and Open Space	30,000 square feet	100 ft.	20%	25 ft.	15 ft. each	25 ft.	40 ft.
All Other Permitted Uses as specified in Article 3, Table 3.02.1	5 acres**	400 ft.	20%	40 ft.	40 ft. each	45 ft.	40 ft.
CONSERVATION SUBDIVISION DESIGN (SEE SECTION 4.06 FOR DESIGN STANDARDS) Public Water and Public Sewer Services Required Minimum Tract Size = 12 Acres							

* Lot size subject to PADEP approval for on-Lot sewage disposal systems.
** Five-acre minimum Lot size unless otherwise specified in this Ordinance.

Section 2.08 Medium Density Residential District (R-2)

(A) *Purpose*.

The Medium Density Residential District (R-2) encompasses areas of the Township where single family residential development exists on Lots that are approximately 15,000 square feet to one (1) acre in size and include public water and sanitary sewer services where available. The purpose of the district is to protect and stabilize the existing residential character and promote and encourage a safe and healthful environment for family life.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses.

2. All uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

(C) *Bulk and Area Regulations*. Table 2.08 specifies the district's bulk and area regulations.

Table 2.08, Medium Density Residential District (R-2) Bulk and Area Regulations

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS						
	Min. Lot Size	Min. Lot Width	Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
				Front	Side	Rear	
Agriculture	0 acres (no minimum)	200 ft.	10%	35 ft.	20 ft. each	35 ft.	100 ft.
Single-Family Detached Dwellings w/On Lot Water and Sewer	60,000 square feet*	200 ft.	40%	35 ft.	20 ft. each	35 ft.	40 ft.
Single Family Detached Dwellings w/Public Water or Public Sewer	20,000 square feet*	100 ft.	40%	35 ft.	15 ft. each	35 ft.	40 ft.
Single Family Detached Dwellings w/Public Water and Public Sewer	15,000 square feet	100 ft.	40%	35 ft.	15 ft. each	35 ft.	40 ft.
Accessory Uses	As allowed by the permitted principal use.			35 ft.	10 ft. each	20 ft.	30 ft.
Public Parks, Playgrounds and Open Space	15,000 square feet	100 ft.	40%	25 ft.	15 ft. each	25 ft.	40 ft.
All Other Permitted Uses as specified in Article 3, Table 3.02.1	5 acres**	300 ft.	25%	50 ft.	30 ft. each	50 ft.	40 ft.

* Lot size subject to PADEP approval for on-Lot sewage disposal systems.
** Five-acre minimum Lot size unless otherwise specified in this Ordinance.

Section 2.09 Medium-High Density Residential District (R-3)

(A) *Purpose*.

The purpose of the Medium-High Density Residential District (R-3) is designed to accommodate medium-high density development and is composed of areas in the Township where such development is not presently located. The regulations for this District are intended to protect and stabilize prevailing characteristics and to promote a safe and healthful environment for family life. To these ends, development is limited to (a) medium-high density, where public water and sanitary sewerage services are presently available or are provided by the Person or entity seeking to develop the area contained in such district, or (b) single-family residential use on Lots having not less than sixty thousand (60,000) square feet of surface area on which a lawful source of potable water is available and on which a lawful on-site sanitary sewage disposal facility can be installed.

It shall further be the intent of this District to:

1. Provide for more environmentally sensitive residential development by preserving the natural character of open fields, stands of trees, surface waterbodies, terrain, and similar natural features.

2. Protect the public health, safety and welfare through the preservation of the Township's potential groundwater resources as identified in the study entitled, Groundwater Availability and Well Siting Study (Middlesex Township, Cumberland County, Pennsylvania, September 1999) and the Addendum to this study and/or in any subsequent study performed on behalf of the Township or Municipal Authority and adopted by the Board of Supervisors from time to time.

3. Encourage the preservation of Open Space, rural lands, and natural resources through the application of the Open Space Development Design standards specified in Subsection (D) below.

4. Minimize potential adverse impacts from new residential development on adjacent properties devoted to non-residential uses.

5. Provide an opportunity for flexibility in Lot design and dwelling types not afforded by conventional residential development.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses.

2. All uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

(C) *Bulk and Area Regulations*. Table 2.09 specifies the district's bulk and area regulations.

(D) *Open Space Development*. In the R-3 District, it shall be optional to utilize one (1) or more contiguous parcels of land having a total area of ten (10) or more acres for an Open Space Residential Development. Standards for Open Space Residential Development are provided in Section 4.16 of this Ordinance. The Open Space Residential Development site shall be serviced by public water service and public sewer services approved by the Pennsylvania Department of Environmental Protection (DEP).

Table 2.09, Medium-High Density Residential District (R-3) Bulk and Area Regulations

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS						
	Min. Lot Size	Min. Lot Width	Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
				Front	Side	Rear	
CONVENTIONAL DEVELOPMENT*							
Agriculture	0 acres (no minimum)	200 ft.	10%	25 ft.	20 ft. each	25 ft.	100 ft.
Single-Family Detached Dwellings w/On Lot Water and Sewer	60,000 square feet*	150 ft.	30%	25 ft.	20 ft. each	25 ft.	40 ft.
Single Family Detached Dwellings w/Public Water or Public Sewer	20,000 square feet*	100 ft.	40%	25 ft.	15 ft. each	25 ft.	40 ft.
Single Family Detached Dwellings w/Public Water and Public Sewer	15,000 square feet	100 ft.	40%	35 ft.	15 ft. each	35 ft.	40 ft.
Single Family Semi-Detached, Duplex Dwellings w/Public Water and Public Sewer	15,000 square feet	100 ft.	40 %	25 ft.	15 ft.	35 ft.	40 ft.
Single Family Attached, Townhouse Dwellings w/Public Water and Public Sewer	7,500 sq. s.	100 ft.	40 %	25 ft.	15 ft.	35 ft.	40 ft.
Place of Worship and Governmental Facilities	5 acres	200 ft.	50%	50 ft.	50 ft. each	50 ft.	40 ft.
Public Parks, Playgrounds, and Open Space w/On Lot Water and Sewer	60,000 square feet*	100 ft.	40%	25 ft.	15 ft. each	25 ft.	40 ft.
Public Parks, Playgrounds, and Open Space w/Public Water or Public Sewer	1 acre	100 ft.	30%	25 ft.	15 ft. each	25 ft.	40 ft.
All Other Permitted Uses as specified in Article 3, Table 3.02.1	5 acres**	300 ft.	25%	50 ft.	30 ft. each	50 ft.	40 ft.
OPEN SPACE RESIDENTIAL DEVELOPMENT (SEE THE FOLLOWING BULK AND AERA STANDARDS; SEE SECTION 4.16 FOR DESIGN STANDARDS) Public Water and Public Sewer Services Required Minimum Tract Size = 10 Acres Maximum Density = 3.5 Dwelling Units Per Acre***							
Single Family Detached	10,000 square feet	80 ft. at the Lot frontage, and 60 ft. if along the turnaround of a cul-de-sac	50%	25 ft. except along a Collector Rd. where such Setback shall be 30'	10 ft. There shall be two (2) Side Yards	30 ft. There shall be a Rear Yard	40 ft.

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS						
	Min. Lot Size	Min. Lot Width	Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
				Front	Side	Rear	
Single-Family Semi-Attached	8,000 square feet	35 ft.	70% for fee simple Lots 50% for common ownership	25 ft.	10 ft. each	25 ft.	40 ft.
Single Family Attached, Townhouse Dwellings****	2,000 square feet	18 ft., except end units shall be 25 ft.					
All Other Permitted Uses as specified in Article 3, Table 3.02.1	1 acre	150 ft.	20%	30 ft.	20 ft. each	30 ft.	40 ft.
Accessory Uses	As allowed by the permitted principal use.			35 ft.	10 ft. each	20 ft.	30 ft.
Public Parks, Playgrounds and Open Space	10,000 square feet	80 ft.	40%	25 ft.	15 ft. each	25 ft.	40 ft.
Principal Building Separation Distances for Planned Communities in Common Ownership				25 ft.	10 ft.	20 ft.	N/A

* All residential Building Lots shall be located outside a Zone I wellhead protection area established for new public drinking water supply wells. Lot size subject to PADEP approval for on-Lot sewage disposal systems.
** Five-acre minimum Lot size unless otherwise specified in this Ordinance.
*** The maximum number of dwelling units shall equal 3.5 dwelling units per acre, calculated by excluding the minimum required Open Space.
**** The maximum number of dwelling units per row or attached units shall be eight (8).

Section 2.10 High Density Residential District (R-4)

(A) *Purpose*.

The purpose of the High-Density Residential District (R-4) is to establish standards of performance and promote the desirable benefits that planned manufactured home communities may have upon the Township. It is further the intent of this District to ensure the interdependency and compatibility of such planned manufactured home communities with essential utilities, amenities, and surrounding land uses in the Township.

It shall further be the intent of this District to:

1. Reflect the changes in the technology of home Building and land development so that resulting economies may convey the benefits derived therefrom to those who need homes;

2. Further the general welfare by extending greater opportunities for better and more affordable housing to all present and prospective residents of the Township;

3. Provide for better quality and greater variety in type, design and layout of planned manufactured home communities than has been evident in many planned manufactured home communities in the past by enforcing uniform standards, desirable design criteria, and encouraging innovative site design approaches;

4. Encourage a diversity in manufactured housing types and prices; and

5. Encourage planned manufactured home communities that are beneficial rather than detrimental to property values and the general welfare of the area in which they are proposed.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses.

2. All uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

(C) *Bulk and Area Regulations*. In addition to the Mobile Home Park Regulations specified in Article VIII of the Middlesex Township Subdivision and Land Development Ordinance, the following bulk and area regulations shall govern the design of planned manufactured home communities. All other provisions of the applicable district shall apply:

1. See Table 2.10 for the required bulk and area regulations.

2. *Minimum Tract Size*. A minimum of twenty (20) contiguous acres shall be required to qualify as a site for a manufactured home community.

3. *Density*. The gross density of a manufactured home community shall be four (4) manufactured home units per acre, provided adequate community or public sewer service and central water service are utilized.

4. *Common Open Space*.

   a. A minimum of thirty (30) percent of the total tract area devoted to a manufactured home community shall be reserved for common Open Space. Such land area may

not include any of the required manufactured home community buffer area as described in Subsection (C)5 below.

b. At least twenty-five (25) percent of the Open Space areas shall be located in an area not subject to flooding and which is usable for active recreation. No such active recreational Open Space areas shall be less than one quarter (¼) acre in size.

5. *Buffer*. A minimum buffer of fifty (50) feet shall be provided from all tract boundaries and any Street Right-of-Way bordering the tract. Manufactured home Lots, structures, or buildings shall not be located within the buffer.

Table 2.10, High Density Residential District (R-4) Bulk and Area Regulations

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS						
	Min. Lot Size	Min. Lot Width	Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
				Front	Side	Rear	
PUBLIC WATER AND PUBLIC SEWER (OR PADEP APPROVED COMMUNITY SYSTEMS)							
Agriculture	0 acres (no minimum)	200 ft.	10%	35 ft.	15 ft. each	35 ft.	100 ft.
Manufactured Home, Single-Wide	6,000 square feet	35 ft.	50%	35 ft.	15 ft. each	35 ft.	40 ft.
Manufactured Home, Double-Wide	7,500 square feet	45 ft.	50%	35 ft.	15 ft. each	35 ft.	40 ft.
Accessory Uses	As allowed by the permitted principal Use		10% of net Lot area	Not permitted	10 ft. each	10 ft.	30 ft.
Manufactured Home Community Office and Service Buildings	6,000 square feet	35 ft.	50%	35 ft.	15 ft. each	35 ft.	40 ft.
All Other Permitted Uses as specified in Article 3, Table 3.02.1	5 acres*	300 ft.	25%	50 ft.	30 ft. each	50 ft.	40 ft.

* Five-acre minimum Lot size unless otherwise specified in this Ordinance.

Section 2.11 Mixed-Use Neighborhood District (MU-1)

(A) *Purpose*.

The Mixed-Use Neighborhood District (MU-1) is a neighborhood character area zone intended to encourage low-impact, Mixed-Use development compatible with adjacent medium density residential areas in close proximity to Collector or Arterial Roads. The district permits a mix of residential uses supported by neighborhood-scaled commercial uses having limited impacts on surrounding residential areas. Mixed-Use Development is intended to be pedestrian-oriented and compatible with the scale and characteristics of adjacent residentially zoned areas or low-rise commercial areas.

It shall further be the intent of this District to:

1. Provide for more environmentally sensitive residential development by preserving the natural character of open fields, stands of trees, surface waterbodies, terrain and similar natural features.

2. Protect the public health, safety and welfare through the preservation of the Township's potential groundwater resources as identified in the study entitled, Groundwater Availability and Well Siting Study (Middlesex Township, Cumberland County, Pennsylvania, September 1999) and the Addendum to this study and/or in any subsequent study performed on behalf of the Township or Municipal Authority and adopted by the Board of Supervisors from time to time.

3. Assure the permanent preservation of Open Space, rural lands, and natural resources.

4. Minimize potential adverse impacts from new residential development on adjacent properties devoted to non-residential uses.

5. Provide an opportunity for flexibility in Lot design and dwelling types not afforded by conventional residential development.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses.

2. All uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

(C) *Required Dwelling Mix*. For a parcel or contiguous parcels of less than (30) acres total acres, the site must include a minimum of three (3) different categories of permitted dwelling types (i.e., single-family detached dwelling, single-family semi-detached dwelling, single-family attached dwelling or multi-family dwelling) and no one (1) permitted dwelling type shall be less than ten (10) percent or more than sixty (60) percent of the total number of dwelling units.

(D) *Maximum Density*. The maximum gross residential density for Mixed-Use development shall not exceed 4.0 dwelling units per gross acre.

(E) *Neighborhood Design Development*. In the MU-1 District, it shall be a use by right and to utilize the Neighborhood Design Development standards specified under Section 4.11 of this Ordinance on a parcel or contiguous parcels of land having a total area of thirty (30) or more acres. The Neighborhood Design Development site shall be serviced by public water service and public sewer services approved by the Pennsylvania Department of Environmental Protection (DEP).

(F) *Bulk and Area Regulations*. Table 2.11 specify the district's bulk and area regulations.

Table 2.11, Mixed-Use Neighborhood District (MU-1) Bulk and Area Regulations

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS						
	Min. Lot Size	Min. Lot Width	Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
				Front	Side	Rear	
ON-LOT WATER AND SEWER OR PUBLIC WATER AND ON-LOT SEWER							
Agriculture	0 acres (no minimum)	200 ft.	10%	40 ft.	20 ft. each	45 ft.	100 ft.
Single-Family Detached Dwellings	60,000 square feet*	200 ft.	35%	40 ft.	20 ft. each	45 ft.	40 ft.
Place of Worship and Government Facilities	5 acres	300 ft.	50%	50 ft.	50 ft. each	50 ft.	40 ft.
Other Permitted Non-Residential Uses as specified in Article 3, Table 3.02.1	3 acres	250 ft.	50%	50 ft.	50 ft. each	50 ft.	40 ft.
Accessory Uses	N/A		10% of net Lot area	Not permitted	10 ft. each	10 ft.	30 ft.
PUBLIC WATER AND PUBLIC SEWER / ON-LOT WATER AND PUBLIC SEWER							
Single Family Detached Dwellings	10,000 square feet	80 ft.	50%	35 ft.	15 ft. each	35 ft.	40 ft.
Single-Family Semi-Detached, Duplex Dwellings	3,500 square feet per dwelling unit	80 ft.	50%	30 ft.	10 ft. each	30 ft.	40 ft.
Single-Family Attached, Townhouse Dwellings	2,000 square feet	20 ft.	50%	**Building Separation:** Side to Side = 15 ft. Rear to Rear or Side = 40 ft.			40 ft.
Other Permitted Non-Residential Uses as specified in Article 3, Table 3.02.1	10,000 square feet	80 ft.	50%	35 ft.	15 ft. each	35 ft.	40 ft.
Residential Accessory Uses	N/A		10% of net Lot area	Not permitted	10 ft. each	10 ft.	30 ft.

* Lot size subject to PADEP approval for on-Lot sewage disposal systems.

Section 2.12 Mixed-Use Village District (MU-2)

(A) *Purpose*.

The Mixed-Use Village District (MU-2) is designed to create opportunities along certain transportation corridors having immediate access to interstate highways that provide for a compatible mix of land uses, including residential, retail, and offices. The allowable residential density ranges from ten (10) to twenty (20) dwelling units per acre. Development is intended to be pedestrian-oriented, provide a strong relationship between buildings and sidewalks, and complement the scale of surrounding residentially zoned areas.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses.

2. All uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

(C) *Required Dwelling Mix*. For a parcel or contiguous parcels of less than (30) acres total acres, the site must include a minimum of three (3) different categories of permitted dwelling types (i.e., single-family detached dwelling, single-family semi-detached dwelling, single-family attached dwelling or multi-family dwelling) and no one (1) permitted dwelling type shall be less than ten (10) percent or more than sixty (60) percent of the total number of dwelling units.

(D) *Neighborhood Design Development*. In the MU-2 District, it shall be a use by right and to utilize the Neighborhood Design Development standards specified under Section 4.11 of this Ordinance on a parcel or contiguous parcels of land having a total area of thirty (30) or more acres. The Neighborhood Design Development site shall be serviced by public water service and public sewer services approved by the Pennsylvania Department of Environmental Protection (DEP).

(E) *Bulk and Area Regulations*. Table 2.12 specifies the district's bulk and area regulations.

Table 2.12, Mixed-Use Village District (MU-2) Bulk and Area Regulations

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS						
	Min. Lot Size	Min. Lot Width	Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
				Front	Side	Rear	
ON-LOT WATER AND SEWER							
Agriculture	0 acres (no minimum)	200 ft.	10%	35 ft.	20 ft. each	35 ft.	100 ft.
Single Family Detached Dwellings	60,000 square feet*	200 ft.	50%	35 ft.	20 ft. each	35 ft.	40 ft.
Single-Family Semi-Attached, Duplex Dwellings	45,000 square feet per dwelling unit*	150 ft.	50%	35 ft.	20 ft. each	35 ft.	40 ft.
Single-Family Attached, Townhouse Dwellings	2,000 square feet	20 ft.	50%	**Building Separation:** Side to Side = 15 ft. Rear to Rear or Side = 40 ft.			40 ft.
Hotel and Motel	1 acre	150 ft.	50%	35 ft.	20 ft.	35 ft.	65 ft.
Other Permitted Non-Residential Uses as specified in Article 3, Table 3.02.1**	1 acre*	150 ft.	50%	35 ft.	20 ft. each	50 ft.	40 ft.
Accessory Uses	N/A			Not permitted	10 ft. each	10 ft.	25 ft.
PUBLIC WATER AND PUBLIC SEWER / ON-LOT WATER AND PUBLIC SEWER / PUBLIC WATER AND ON-LOT SEWER							
Single Family Detached Dwellings	10,000 square feet	80 ft.	50%	35 ft.	15 ft. each	35 ft.	40 ft.
Single-Family Semi-Detached, Duplex Dwellings	3,500 square feet per dwelling unit	80 ft.	50%	30 ft.	10 ft. each	30 ft.	40 ft.
Single-Family Attached, Townhouse Dwellings	2,000 square feet	20 ft.	50%	**Building Separation:** Side to Side = 15 ft. Rear to Rear or Side = 40 ft.			40 ft.
Multi-family Dwellings	None	100 ft.	50%	30 ft.	10 ft.	10 ft.	40 ft.
				Building Separation: 30 ft.			
Other Permitted Non-Residential Uses as specified in Article 3, Table 3.02.1	10,000 square feet	80 ft.	50%	35 ft.	15 ft. each	35 ft.	40 ft.
Residential Accessory Uses	N/A		10% of net Lot area	Not permitted	10 ft. each	10 ft.	25 ft.
NEIGHBORHOOD DESIGN DEVELOPMENT (SEE SECTION 4.11 FOR BULK, AREA, AND DESIGN STANDARDS)							

* Lot size subject to PADEP approval for on-Lot sewage disposal systems.

Section 2.13 Institutional District (INS)

(A) *Purpose*.

The Institutional District (INS) is designed to provide for public, semi-public, and privately-owned land uses which serve the Township's educational, religious, social, healthcare, recreational, and cultural needs. These regulations are designed to provide for institutional land uses in developed areas of the Township served by public infrastructure and convenient transportation access for residents and visitors.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses.

2. All uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

(C) *Bulk and Area Regulations*. Table 2.13 specifies the district's bulk and area regulations.

Table 2.13, Institutional District (INS) Bulk and Area Regulations

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS						
	Min. Lot Size	Min. Lot Width	Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
				Front	Side	Rear	
ON-LOT WATER AND SEWER							
Agriculture	0 acres (no minimum)	200 ft.	10%	40 ft.	20 ft. each	45 ft.	100 ft.
All Permitted Uses as specified in Article 3, Table 3.02.1	60,000 square feet*	200 ft.	60%	40 ft.	20 ft. each	45 ft.	50 ft.
PUBLIC WATER OR PUBLIC SEWER							
All Permitted Uses as specified in Article 3, Table 3.02.1	50,000 square feet*	175 ft.	60%	35 ft.	20 ft. each	35 ft.	50 ft.
PUBLIC WATER AND PUBLIC SEWER							
All Permitted Uses as specified in Article 3, Table 3.02.1	40,000 square feet	150 ft.	50%	35 ft.	20 ft. each	35 ft.	50 ft.

* Lot size subject to PADEP approval for on-Lot sewage disposal systems.

Section 2.14 Commercial Highway District (C-1)

(A) *Purpose*.

The Commercial Highway District (C-1) is designed to provide for establishments offering accommodations or services to motorists and outlying neighborhoods, and to provide for non-pedestrian-oriented retail, wholesale, service, and repair activities that do not contribute to the creation of unattractive, congested and unsafe highway conditions.

It shall further be the intent of this District to encourage reinvestment, revitalization, and overall enhancement of certain land along the Harrisburg Pike (SR 0011, "Miracle Mile") corridor through development standards that encourage innovation and promote flexibility, economy, and ingenuity in development (i.e., infill, replacement and redevelopment).

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses.

2. All uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

(C) *Bulk and Area Regulations*. Table 2.14 specifies the district's bulk and area regulations.

Table 2.14, Commercial Highway District (C-1) Bulk and Area Regulations

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS						
	Min. Lot Size	Min. Lot Width	Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
				Front	Side	Rear	
ON-LOT WATER AND SEWER							
Agriculture	0 acres (no minimum)	200 ft.	10%	40 ft.	20 ft. each	45 ft.	100 ft.
Hotel and Motel	1 acre	150 ft.	50%	35 ft.	20 ft.	35 ft.	65 ft.
All Other Permitted Uses as specified in Article 3, Table 3.02.1	60,000 square feet*	150 ft.	70%	35 ft.**	20 ft. each***	35 ft.	50 ft.
PUBLIC WATER AND/OR PUBLIC SEWER							
All Permitted Uses as specified in Article 3, Table 3.02.1	30,000 square feet*	100 ft.	70%	35 ft.**	15 ft. each***	35 ft.	50 ft.

* Lot size subject to PADEP approval for on-Lot sewage disposal systems.
** Front Yard Setbacks shall be a minimum of seventy-five (75) feet when uses are fronting Arterial Streets or grade separated highway interchange roadways.
*** Side yard requirement when abutting residential use or district is one hundred (100) feet.

Section 2.15 Light Industrial-Commercial District (C-2)

(A) *Purpose*.

The Light Industrial-Commercial District (C-2) is designed to permit and encourage appropriate sites to be used for limited industries. Such limited industries are characterized by uses of large sites, attractive buildings, and inoffensive manufacturing and production processes. Such districts are further intended to encourage the harmonious and appropriate physical development of the Township by providing gradual transitions between adjacent non-industrial and commercial uses. To these ends, the District is intended to discourage and minimize air and water pollution, noise, glare, heat, vibration, fire, and safety hazards and other environmental detriments.

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses.

2. All uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

(C) *Bulk and Area Regulations*. Table 2.15 specifies the district's bulk and area regulations.

Table 2.15, Light Industrial-Commercial District (C-2) Bulk and Area Regulations

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS						
	Min. Lot Size	Min. Lot Width	Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
				Front	Side	Rear	
ON-LOT WATER AND SEWER							
All Permitted Uses as specified in Article 3, Table 3.02.1, Except Hotel and Motel	3 acres*	200 ft.	65%	35 ft.	20 ft. each**	35 ft.	50 ft.
Hotel and Motel	1 acre	150 ft.	50%	35 ft.	20 ft.	35 ft.	65 ft.
PUBLIC WATER AND/OR PUBLIC SEWER							
All Permitted Uses as specified in Article 3, Table 3.02.1, Except Hotel and Motel	30,000 square feet**	100 ft.	65%	35 ft.	20 ft. each**	35 ft.	50 ft.
Hotel and Motel	1 acre	150 ft.	50%	35 ft.	20 ft.	35 ft.	65 ft.

* Lot size subject to PADEP approval for on-Lot sewage disposal systems.
** Side yard requirement when abutting residential use or district is one hundred (100) feet.

Section 2.16 Industrial District (I)

(A) *Purpose*.

The Industrial District (I) is to provide for the development of medium to heavy industrial uses that provide needed employment opportunities for the Township and greater Carlisle region and provide a strong tax base for the Township and school district. Industrial development has inherent characteristics that require special attention and protection. The District regulates uses that are detrimental to the public's health, safety, and welfare, and have significant environmental impacts. Due regard must be given to industrial needs for adequate site locations with availability of water and sewer systems, transportation, and compatibility with surrounding development.

It shall further be the intent of this District to encourage reinvestment, revitalization, and overall enhancement of certain land along the Harrisburg Pike (SR 0011, "Miracle Mile") corridor through development standards that encourage innovation and promote flexibility, economy, and ingenuity in development (i.e., infill, replacement, and redevelopment).

(B) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses.

2. All uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

3. Optional development standards are provided in Section 2.20 Redevelopment Opportunity Overlay District (ROO) to encourage reinvestment, revitalization, and overall enhancement of certain land along the Harrisburg Pike (SR 0011, "Miracle Mile") corridor.

(C) *Bulk and Area Regulations*. Table 2.16 specifies the district's bulk and area regulations.

Table 2.16, Industrial District (I) Bulk and Area Regulations

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS						
	Min. Lot Size	Min. Lot Width	Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
				Front	Side**	Rear	
ON-LOT WATER AND SEWER							
Warehouse and Distribution	5 acres*	400 ft.	75%	50 ft.	35 ft.	50 ft.	50 ft.
All Other Permitted Uses as specified in Article 3, Table 3.02.1	3 acres*	200 ft.	75%	35 ft.	20 ft.**	35 ft.	50 ft.
PUBLIC WATER AND/OR PUBLIC SEWER							
Warehouse and Distribution	5 acres*	400 ft.	75%	50 ft.	35 ft.	50 ft.	50 ft.
All Permitted Uses as specified in Article 3, Table 3.02.1	1 acre	120 ft.	75%	35 ft.	20 ft.**	35 ft.	50 ft.

* Lot size subject to PADEP approval for on-Lot sewage disposal systems.
** Side yard requirement when abutting residential use or district is one hundred (100) feet.

Section 2.17 Airport Hazard Overlay District (AHO)

(A) *Purpose*. The purpose of the Airport Hazard Overlay District (AHO) is to create an airport district overlay that considers safety issues around the Carlisle Airport located in adjacent South Middleton Township. A portion of the airport hazard area affects certain land area in Middlesex Township. The AHO District regulates and restricts the heights of constructed structures and objects of natural growth, creates appropriate zones, establishing the boundaries thereof and providing for changes in the restrictions and boundaries of such zones, creates the permitting process for use within said zones and provides for enforcement, assessment of violation penalties, an appeals process, and judicial review.

(B) *Authority*. Act 164 of 1984 (Pennsylvania Laws Relating to Aviation), Subchapter B, "Airport Zoning Act", Section 5912, grants powers to any municipality that is affected by an airport hazard area to adopt, administer, and enforce airport zoning regulations for such airport hazard area.

(C) *Relation to Other Zone Districts*. The AHO District shall not modify the boundaries of any underlying zoning district. Where identified, the AHO District shall impose certain requirements on land use and construction in addition to those contained in the underlying zoning district.

(D) *Establishment of Airport Zones*: There are hereby created and established certain zones within the AHO District, as defined in Article 6 of this Ordinance and depicted on Figure 2.17.1, Federal Aviation Regulations (FAR), Part 77 Surface Areas, and illustrated on Figure 2.17.2 Carlisle Airport Hazard Area Map, hereby adopted as part of this Ordinance, which include:

1. Approach Surface Zone
2. Conical Surface Zone
3. Horizontal Surface Zone
4. Primary Surface Zone
5. Transitional Surface Zone

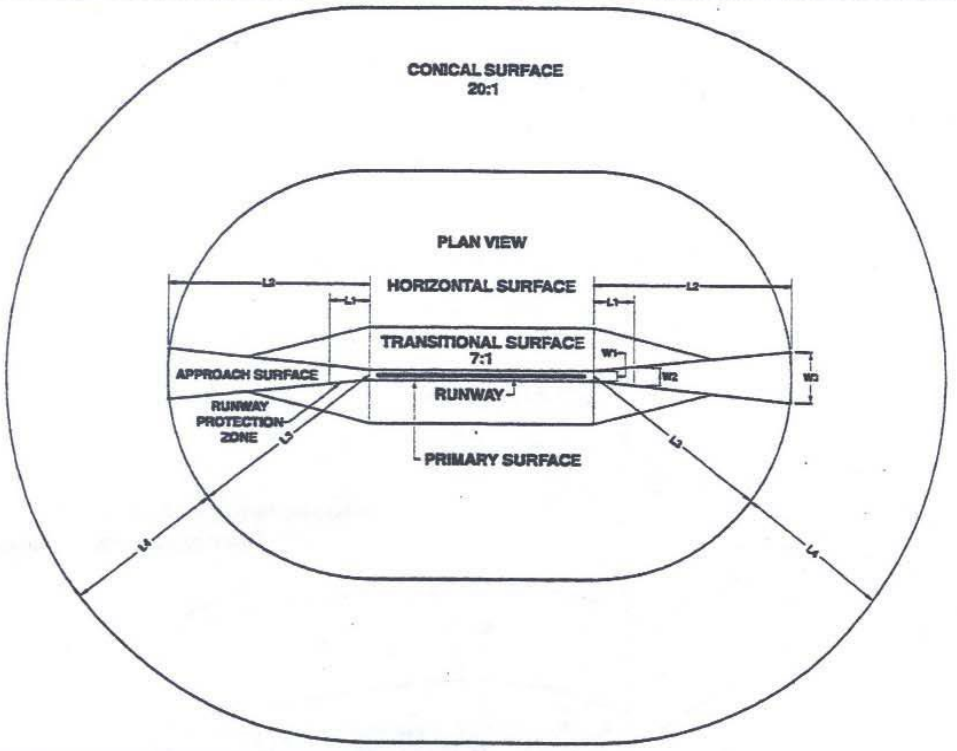
(E) *Zoning Permit Applications*.

1. As regulated by Act 164 and defined by 14 Code of Federal Regulations Part 77.13(a) (as amended or replaced), any Person who plans to erect a new structure, to add to an existing structure, or to erect and maintain any object (natural or manmade), in the vicinity of the airport, shall first notify the Pennsylvania Department of Transportation Bureau of Aviation (BOA) by submitting PENNDOT Form AV-57 to obtain an obstruction review of the proposal at least 30 calendar days prior to commencement thereof.

2. The Department's BOA response must be included with a zoning permit application for it to be considered complete. If the Department's BOA returns a determination of no penetration of airspace, the permit request should be considered in compliance with the intent of these AHO District regulations. If the Department's BOA returns a determination of a penetration of airspace, the zoning permit shall be denied, and the project sponsor may seek a variance from such regulations as outlined in Subsection (F).

3. No zoning permit is required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure.

Figure 2.17.1, Federal Aviation Regulations (FAR), Part 77 Surface Areas



FAR PART 77 "IMAGINARY SURFACES" DIMENSIONAL REQUIREMENTS

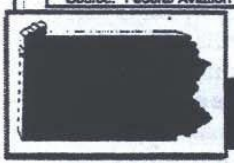
Runway Type	Runway End Approach	Runway End Other	Conical Surface (L4)	Horizontal Surface (L3)	Approach Surface Length (L2)	Approach Surface Inner Width (W1)	Approach Surface Other Width (W3)	Approach Slope	Primary Surface Width	Transitional Surface
Small Airplanes[2]	V	V	4,000	5,000	5,000	250	1,250	20:1	250	7:1
		NP	4,000	5,000	5,000	500	1,250	20:1	500	7:1
		NP 3/4	4,000	5,000	5,000	1,000	1,250	20:1	1,000	7:1
		P	4,000	5,000	5,000	1,000	1,250	20:1	1,000	7:1
	NP	V	4,000	5,000	5,000	500	2,000	20:1	500	7:1
		NP	4,000	5,000	5,000	500	2,000	20:1	500	7:1
		NP 3/4	4,000	5,000	5,000	1,000	2,000	20:1	1,000	7:1
		P	4,000	5,000	5,000	1,000	2,000	20:1	1,000	7:1
Large Airplanes[3]	V	V	4,000	5,000	5,000	500	1,500	20:1	500	7:1
		NP	4,000	10,000	5,000	500	1,500	20:1	500	7:1
		NP 3/4	4,000	10,000	5,000	1,000	1,500	20:1	1,000	7:1
		P	4,000	10,000	5,000	1,000	1,500	20:1	1,000	7:1
	NP	V	4,000	10,000	10,000	500	3,500	34:1	500	7:1
		NP	4,000	10,000	10,000	500	3,500	34:1	500	7:1
		NP 3/4	4,000	10,000	10,000	1,000	3,500	34:1	1,000	7:1
		P	4,000	10,000	10,000	1,000	3,500	34:1	1,000	7:1
Large and Small Airplanes	NP 3/4	V	4,000	10,000	10,000	1,000	4,000	34:1	1,000	7:1
		NP	4,000	10,000	10,000	1,000	4,000	34:1	1,000	7:1
		NP 3/4	4,000	10,000	10,000	1,000	4,000	34:1	1,000	7:1
		P	4,000	10,000	10,000	1,000	4,000	34:1	1,000	7:1
	P	V	4,000	10,000	10,000/40,000	1,000	4,000/16,000	50:1/40:1	1,000	7:1
		NP	4,000	10,000	10,000/40,000	1,000	4,000/16,000	50:1/40:1	1,000	7:1
		NP 3/4	4,000	10,000	10,000/40,000	1,000	4,000/16,000	50:1/40:1	1,000	7:1
		P	4,000	10,000	10,000/40,000	1,000	4,000/16,000	50:1/40:1	1,000	7:1

1 - In Feet
2 - Less than 12,500 lbs maximum certified takeoff weight
3 - Greater than 12,500 lbs maximum certified takeoff weight

V = Visual approach 20:1
NP = Nonprecision approach 34:1
NP 3/4 = Nonprecision approach with visibility minimums as low as 3/4 statute miles 34:1
P= Precision approach 50:1

Note: L1 is the length of the RPZ and W2 is the outer width of the RPZ as defined by approach visibility minimums

Source: Federal Aviation Administration

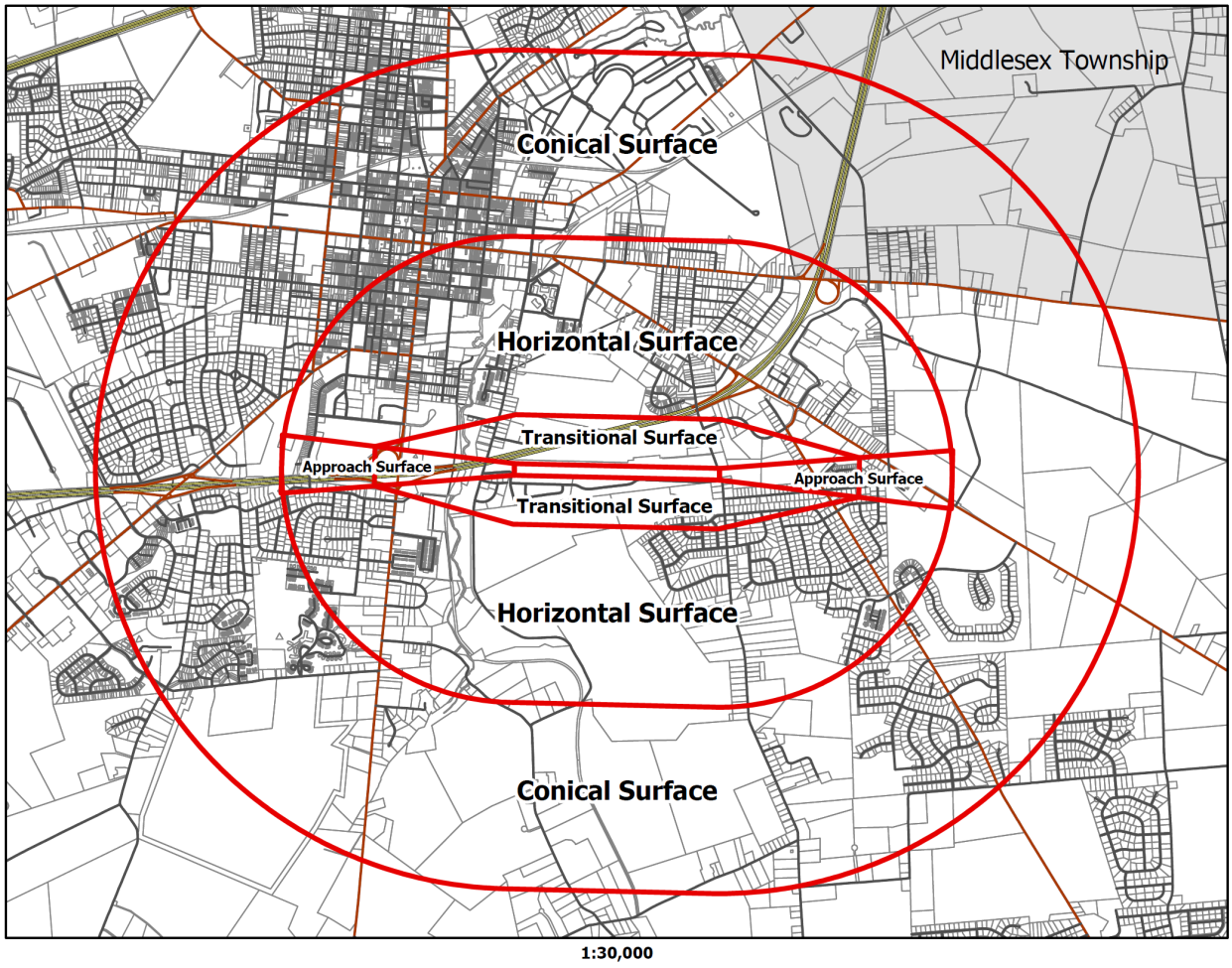


Pennsylvania Land Use Compatibility Guidelines

FAR PART 77 SURFACES AND DIMENSION REQUIREMENTS

Exhibit 3

Figure 2.17.2, Carlisle Airport Hazard Map



(F) *Variance*.

1. Any request for a variance shall include documentation in compliance with 14 Code of Federal Regulations Part 77 Subpart B (FAA Form 7460-1 as amended or replaced). Determinations of whether to grant a variance will depend on the determinations made by the FAA and the Department's BOA as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the request for a variance shall consider which of the following categories the FAA has placed the proposed construction in:

   a. *No Objection*. The subject construction is determined not exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination a variance shall be granted.

   b. *Conditional Determination*. The proposed construction/alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated. Under this determination, a variance shall be granted contingent upon implementation of mitigating measures as described in Subsection (I), Obstruction Marking and Lighting.

c. *Obstruction Marking and Lighting*. The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance shall be denied and the reasons for this determination shall be outlined to the applicant.

2. Such requests for variances shall be granted where it is duly found that a literal application or enforcement of these regulations will result in unnecessary hardship and that relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the intent of this Ordinance.

(G) *Use Restrictions*. Notwithstanding any other provisions of this Ordinance, no use shall be made of land or water within the AHO District in such a manner as to create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the Carlisle Airport.

(H) *Pre-Existing Non-Conforming Uses:* The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use. No nonconforming use shall be structurally altered or permitted to grow higher, so as to increase the nonconformity, and a nonconforming use, once substantially abated (subject to the underlying zoning ordinance,) may only be reestablished consistent with the provisions herein.

(I) *Obstruction Marking and Lighting*. Any permit or variance granted pursuant to the provisions of this Ordinance may be conditioned according to the process described in Subsection (F) to require the owner of the structure or object of natural growth in question to permit the Township, at its own expense, or require the Person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety.

(J) *Violations and Penalties*. Subject to Section 1.12 of this Ordinance.

(K) *Appeals*. Subject to Section 1.13 of this Ordinance.

(L) *Conflicting Regulations*. Where there exists a conflict between any of these regulations or limitations prescribed in this Ordinance and any other regulation applicable to the same area, the more stringent limitation or requirement shall govern and prevail.

Section 2.18 Data Center Overlay District (DCO)

(A) *Purpose*. The purpose of the Data Center Overlay District (DCO District) is to accommodate data centers and complementary supporting uses in proximity to existing electric transmission lines and infrastructure, subject to and in exchange for complying with certain design criteria.

(B) *Boundaries of District*. The boundaries of the DCO District shall be as delineated on the Zoning Map specified in Section 2.02 of this Ordinance.

(C) *Applicability*. The DCO District shall be an optional overlay district for certain land as depicted on the Zoning Map.

(D) *Required Utilities*. Public water and public sewer shall be required. However, private wells may also be permitted for a Data Center use subject to the requirements specified under Section 3.05(G)2.e.

(E) *Use Regulations*.

1. Permitted Uses and Use regulations are specified in Article 3 Zoning Uses.

2. Unless otherwise modified by the standards specified under the DCO District, all uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

(F) *Bulk and Area Regulations*. Table 2.18 specifies the DCO District's bulk and area regulations, which shall prevail over the underlying zoning district's bulk and area standards.

Table 2.18, Data Center Overlay District (DCO) Bulk and Area Regulations

Permitted Uses Per Table 3.02.1	Bulk and Area Regulations							
	Min. Lot Size	Min. Lot Width	Max. Lot Coverage	Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
					Front	Side	Rear	
PUBLIC WATER AND PUBLIC SEWER								
All Permitted Uses as Specified in Table 3.02.1	25 acres	200 ft.	70%	70%	35 ft.	35 ft.		75 ft.

(G) *Design Criteria*.

1. *Façade Standards*.

a. *Principal Façades*. The principal Façade requirements apply to all Building Façades that are oriented and face toward an abutting: (i) public Street; (ii) lot with an existing residential use within 1,000 feet of the Building Façade; or (iii) lot within a Residential District within 1,000 feet of the Building Façade.

(1) *Requirements*.

(a) *Differentiated Surfaces*. Principal Façades of a Building must incorporate the following standards at horizontal linear intervals that may vary in frequency but must be no less frequent than every one hundred fifty (150) horizontal linear feet or no less frequent than thee (3) times (x) the average height of the Building:

i. Fenestration or Fenestration and (Optional) Green-Wall; and

ii. A change in one of the following design elements:

[A] Building material;

[B] Pattern;

[C] Texture;

[D] Color; or

[E] Accent materials.

(b) *Consistent Design*. When a Building has more than one (1) principal Façade, the principal Façades of such Building must be consistent in terms of design, materials, details, and treatment.

(c) *Fenestration*. Each principal Façade of a Building must include Fenestration as follows:

i. *Fenestration Surface Coverage of the Façade*. Fenestration must comprise at least thirty (30) percent of the total surface coverage area of the principal Façade.

[A] *Distributed Fenestration Coverage*. Fenestration provided to meet the:

[1] Required thirty (30) percent total surface coverage area of the principal Façade must be located in separated, individual placements or clustered bays; and

[2] Each placement or bay may count towards no more than seven and one-half (7.5) percent of such total surface coverage area.

ii. *Fenestration Coverage Pattern*. The placement pattern of individual or clustered bays of Fenestration must be distributed horizontally and vertically across the principal Façade.

iii. *Fenestration Consistent Design with Principal Façade*. The Fenestration must be compatible with the other design, materials, details, and treatment used on the same principal Façade.

iv. *Green-Wall Treatment*.

[A] A Green-Wall treatment may be provided in lieu of up to half of the Fenestration surface coverage

of the Façade requirement of Section 2.18(G)1.a.(1)(c)i of this Ordinance.

[B] When provided, Green-Wall treatments must provide the following:

[1] *Maintenance*. The owner, or the owner's agent, is responsible for the repair, replacement, and maintenance of the Green-Wall for the duration of the use.

[2] *Distributed Green-Wall Surface Coverage*. Green-Wall areas must be provided to meet up to half of the required thirty (30) percent total surface coverage area of the principal Façade of a Building.

[3] *Green-Wall Coverage Pattern*. The Green-Wall areas must be distributed horizontally and vertically across the principal Façade.

b. *Mechanical Equipment Façade Standards*. Where two (2) principal Façades are required on opposing sides of a Building pursuant to Section 2.18(G)1 of this Ordinance up to one (1) mechanical equipment Façade pursuant to Section 2.18(G)1.b.(1) may be provided in lieu of one (1) such required principal Façade if such principal Façade is oriented and faces toward an abutting public Street.

(1) *Requirements*.

(a) *Mechanical Equipment Façade*. Optional mechanical equipment Façades must provide the following:

i. *Partial or Full Visual Screening of Mechanical Equipment*. Mechanical equipment attached to or mounted on the Building Façade must be partially or fully visually screened from view at the ground level from the nearest abutting public Street using mesh, lattice, cladding, or grillwork or a combination of these methods, or similar methods so as to ensure that the mechanical equipment is partially or fully screened to the maximum extent that permits necessary ventilation for any equipment; and

ii. *Differentiated Surfaces*. The mechanical equipment Façade, including any provided screening methods, must incorporate a change in at least one (1) of the following design elements at horizontal linear intervals that may vary in frequency but must be no less frequent than every one hundred fifty (150) horizontal linear feet or no less frequent than three (3) times (x) the average height of the Building:

[A] Building material;

[B] Pattern;

[C] Texture;

[D] Color; or

[E] Accent materials.

c. *Main Entrance Feature Standards*. Each Building must include at least one (1) main entrance feature that meets the requirements of Section 2.18(G)1.c.(1) of this Ordinance.

(1) *Requirements*.

(a) *Main Entrance Feature*. Main entrance features must meet the following requirements:

i. *Entrance Feature Design*. Main entrance features must either project or recess from the main Building plane, and/or be differentiated from the remainder of the Building Façade by a change in Building material.

ii. Foundation Plantings or Enhanced Landscaping. Main entrance features must incorporate foundation plantings consisting of a mix of evergreen and deciduous shrubs, grasses, sedges, or rushes, and/or herbaceous perennials, ferns, or vines for a minimum of fifty (50) percent of the length of the Façade. These foundation plantings are in addition to any required plantings and landscape treatments.

2. *Site Design Standards*.

a. *Loading Space Location*. Loading spaces are permitted to be located on only one (1) Façade.

b. *Mechanical Equipment*.

(1) *Location and Screening of Mechanical Equipment*. All ground level and roof top mechanical equipment must meet the following standards:

(a) Mechanical equipment must be fully screened on all sides. Such visually solid screen must be constructed with a design, materials, details, and treatment compatible with those used on the nearest principal Façade of the Building;

i. *Perforation for Ventilated Screening*. Screening for mechanical equipment may incorporate perforated surfaces on screening walls as necessary to permit ventilation of mechanical equipment.

ii. *Separation from Residential*. Ground mounted mechanical equipment must be separated from an abutting lot: (i) with an existing residential use; or (ii) within a Residential

District, by a principal Building, or fully screened from view from abutting residential lot(s).

iii. *Ground Mounted Prohibited in Front Yards*. Ground mounted mechanical equipment must not be located in any required front yard setback.

c. *Setbacks and Building Massing Adjacent to Residential*. Unless specified herein, the following requirements apply when a Building is to be located on a lot abutting a lot: (i) with an existing residential use; or (ii) within a Residential District, or separated by a Public Local, Collector Minor Arterial Street a from a lot: (i) with an existing residential use; or (ii) within a Residential District (i.e., common lot line):

(1) *Minimum Parking Setback*. Parking must be setback at least fifty (50) feet from such common lot or abutting right-of-way line.

(2) *Minimum Setback for Structures*. Structures must be setback at least one hundred (100) feet from such common lot line abutting right-of-way.

d. *Soundproofing*. Mechanical equipment, whether on a roof top, on the ground level, or elsewhere on the exterior of the lot abutting a lot: (i) with an existing residential use; or (ii) within a Residential District any, must be screened on all four (4) sides by an acoustical barrier. For purposes of this section, acoustical barrier is defined as an exterior solid or louvred wall containing sound-proofing materials designed to absorb noise and protect neighboring properties from noise pollution.

(H) *Modification of Standards*. Consistent with Sections 603(c)(5) and 605(3) of the Pennsylvania Municipalities Planning Code, the Board of Township Supervisors may, by conditional use approval, authorize a modification of the DCO District standards of Section 2.18 of this Ordinance, or other area, dimensional and design related standards of this Ordinance, which impact the layout and design of development within the DCO District, in order to encourage the use of innovative design. Any conditional use application requesting a modification of a DCO District standard or other applicable zoning standard shall be subject to the following standards:

1. The modification is generally consistent with the applicable elements of the:

a. Intended purpose of DCO District as specified under Section 2.18(A) of this Ordinance;

b. Statement of Purposes (Section 1.02) of this Ordinance; and

c. Township Comprehensive Plan.

2. The modification will not result in any danger to the public health and safety, nor adversely impact adjoining properties or future inhabitants of the DCO District.

3. The modification will allow for equal or better results and represents the minimum amount of relief necessary to ensure compliance with the applicable standard.

Section 2.19 Floodplain Conservation Overlay District (FCO)

(A) *Statutory Authorization*. The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978 as amended by Act 65 of 2022, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Board of Supervisors of the Township of Middlesex does hereby order as follows.

(B) *General Provisions*.

1. *Intent*. The intent of this Section is to:

   a. Promote the general health, welfare, and safety of the community.

   b. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.

   c. Minimize danger to public health by protecting water supply and natural drainage.

   d. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

   e. Comply with federal and state floodplain management requirements.

2. *Applicability*. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township of Middlesex unless a Permit has been obtained from the Floodplain Administrator.

3. *Abrogation and Greater Restrictions*. This ordinance supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Ordinance, the more restrictive shall apply.

4. *Warning and Disclaimer of Liability*.

   a. The degree of flood protection sought by the provisions of this Section is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas will be free from flooding or flood damages.

   b. This Section shall not create liability on the part of the Township of Middlesex or any officer or employee thereof for any flood damages that result from reliance on this Ordinance, or any administrative decision lawfully made thereunder.

(C) *Administration*.

1. *Designation of the Floodplain Administrator*.

a. The Zoning Officer is hereby appointed to administer and enforce this Ordinance and is referred to herein as the Floodplain Administrator. The Floodplain Administrator shall:

(1) Fulfill the duties and responsibilities set forth in these regulations,

(2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or

(3) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations.

b. Administration of any part of these regulations by another entity shall not relieve the Township of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

c. In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Township Manager.

2. *Permits Required*. A Permit shall be required before any construction or development is undertaken within any area of the Township of Middlesex.

3. *Duties and Responsibilities of the Floodplain Administrator*.

a. The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

b. Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.

c. In the case of existing structures, prior to the issuance of any Permit, the Floodplain Administrator shall review the proposed cost of improvements or repairs and the pre-improvement market value of the structure, so that a substantial improvement/substantial damage determination can be made, in accordance with FEMA's Substantial Improvement/Substantial Damage Desk Reference.

d. During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the Permit and information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.

e. In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any Building, structure, premises, or development in the identified floodplain area, upon presentation of proper credentials, with the permission of the property owner or a tenant, at any reasonable hour to enforce the provisions of this Ordinance. In the absence of such consent, the Floodplain Administrator must obtain an administrative warrant.

f. In the event the Floodplain Administrator discovers that the work does not comply with the Permit or permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Board of Supervisors for whatever action it considers necessary.

g. The Floodplain Administrator shall maintain in perpetuity, or for the lifetime of the structure, all records associated with the requirements of this Ordinance including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.

h. The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program as requested.

i. The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the Floodplain Administrator.

j. The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2018 IBC and the 2018 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.

4. *Application Procedures and Requirements*.

a. Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Township of Middlesex. Such application shall contain the following:

(1) Name and address of applicant.

(2) Name and address of owner of land on which proposed construction is to occur.

(3) Name and address of contractor.

(4) Site location including address.

(5) Listing of other permits required.

(6) Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the Building before the flood damage occurred where appropriate.

(7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

b. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:

(1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;

(2) All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;

(3) Adequate drainage is provided so as to reduce exposure to flood hazards;

(4) Structures will be anchored to prevent floatation, collapse, or lateral movement;

(5) Building materials are flood-resistant;

(6) Appropriate practices that minimize flood damage have been used; and

(7) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.

c. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:

(1) A completed Permit Application Form.

(2) A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:

(a) North arrow, scale, and date;

(b) Topographic contour lines, if available;

(c) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;

(d) The location of all existing Streets, driveways, and other access ways; and

(e) The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.

(3) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:

(a) The proposed lowest floor elevation of any proposed Building based upon North American Vertical Datum of 1988;

(b) The elevation of the base flood;

(c) Supplemental information as may be necessary under 34 PA Code, the 2018 IBC or the 2018 IRC, or the latest revision thereof as adopted by the Commonwealth of Pennsylvania.

(4) The following data and documentation:

(a) Detailed information concerning any proposed floodproofing measures and corresponding elevations.

(b) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood.

(c) Documentation, certified by a Registered Design Professional, to show that the effect of any proposed development within a Floodway Area specified in Section (D)2.(a) will not increase the base flood elevation at any point.

(d) Documentation, certified by a Registered Design Professional, to show that the cumulative effect of any proposed development within an AE Area/District without floodway specified in Section (D)2.(b) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point within the community.

(e) A document, certified by a Registered Design Professional, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.

(f) Detailed information needed to determine compliance with Section (E)3.(f), Storage, and Section (E)4., Development Which May Endanger Human Life, including:

i. The amount, location and purpose of any materials or substances referred to in Sections (E)3.(f) and (E)4 which are intended to be used, produced, stored or otherwise maintained on site.

ii. A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section (E)4 during a base flood.

(g) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."

(h) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

d. Applications for Permits shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

5. *Review of Application by Others*. A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g., planning commission, municipal engineer, etc.) for review and comment.

6. *Changes*. After the issuance of a Permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing and shall be submitted by the applicant to Floodplain Administrator for consideration.

7. *Placards*. In addition to the Permit, the Floodplain Administrator shall issue a placard, or similar document, which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Permit, the date of its issuance, and be signed by the Floodplain Administrator.

8. *Start of Construction*.

a. Work on the proposed construction or development shall begin within one hundred eighty (180) days after the date of issuance of the Permit. Work shall also be completed within twelve (12) months after the date of issuance of the Permit or the Permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The issuance of the Permit does not refer to or provide zoning approval.

b. The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of Streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a Building, whether or not that alteration affects the external dimensions of the Building.

c. Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain

Administrator to approve such a request and the original Permit is compliant with the ordinance and FIRM/FIS in effect at the time the extension is granted.

9. *Enforcement*.

a. *Notices*. Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of the Permit, any information on the Permit application or any provisions of this Ordinance, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall comply with the requirements of the MPC and the following:

(1) Be in writing;

(2) Include a statement of the reasons for its issuance;

(3) Allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;

(4) Be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice in the same manner as an enforcement notice under the Middlesex Township Zoning Ordinance;

(5) Contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this Ordinance.

b. *Violations and Penalties*. See Section 1.12 of this Ordinance.

10. *Appeals*.

a. Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Section, may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.

b. Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with the procedures set forth in Section 1.13 of this Ordinance.

c. Any person aggrieved by any decision of the Zoning Hearing Board may appeal to the Court of Common Pleas of Cumberland County, as provided by the laws of the Commonwealth of Pennsylvania including the Pennsylvania Flood Plain Management Act.

(D) *Identification of Floodplain Areas*.

1. *Identification*. The identified floodplain area, also known as the FP-Floodplain Conservation District, shall be:

a. Any areas of Township of Middlesex, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated September 7, 2023, and issued by the Federal

Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

b. The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Township of Middlesex and declared to be a part of this Ordinance.

2. *Description and Special Requirements of Identified Floodplain Areas*. The identified floodplain area shall consist of the following specific areas:

a. The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a Watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.

(1) *Permitted Uses*. In the Floodway Area the following uses and activities are permitted provided that they are in compliance with the provisions of the underlying zoning district and are not prohibited by any other ordinance and provided that they do not require structures, fill or storage of materials and equipment:

(a) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, Truck farming, forestry, sod farming and wild crop harvesting.

(b) Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.

(c) Accessory residential uses, such as yard areas, gardens, play areas, and porous playing areas.

(d) Accessory industrial and commercial uses such as yard areas, porous paving and loading areas and airport landing strips.

(2) *Uses Permitted by Special Exception*.

(a) The following uses and activities may be permitted by Special Exception as allowed by the Zoning Hearing Board provided that they are in compliance with the provisions of the underlying zoning district and are not prohibited by any other provisions of this Ordinance:

i. Structures, except mobile/manufactured homes, accessory to the uses and activities of Section (D)2.(a) above.

ii. Utilities and public facilities and improvements such as railroads, Streets, bridges, transmission lines, pipelines,

water and sewage treatment plants and other similar or related uses.

iii. Water-related uses and activities such as marinas, docks, wharves, piers, etc.

iv. Extraction of sand, gravel and other materials.

v. Temporary uses such as circuses, carnivals, and similar activities.

vi. Storage of materials and equipment provided that they are not buoyant, flammable or explosive, or involving development which may endanger human life as detailed in Section (E)4., and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, or can be readily removed from the area within the time available after flood warning.

vii. Other uses and activities similar to those described in (i) through (vi), above, provided they cause no increase in flood heights or velocities. All uses, activities, and structural developments shall be undertaken in strict compliance with the floodproofing provisions contained in all other applicable codes and this Ordinance.

(b) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(c) Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

b. The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.

(1) The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.

(2) AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.

(a) No encroachments, including fill, new construction, substantial improvements, or other development shall be permitted in an AE

Zone without floodway, unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed development together with all other existing and anticipated development, would not result in an increase in flood levels of more than one foot within the entire community during the occurrence of the base flood discharge.

(b) No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any Watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

c. The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.

In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by a Registered Design Professional, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality. In the absence of any of the above data or documentation, the community may require elevation of the lowest floor to be at least three (3) feet above the highest adjacent grade.

d. The AO and AH Area/ District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one (1) and (3) three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

3. *Changes in Identification of Area*. The Identified Floodplain Area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See Section (E)1.(b) for situations where FEMA notification is required.

4. Boundary Disputes. Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Township of Middlesex and any party aggrieved by this decision or determination may appeal to the Board of Supervisors. The burden of proof shall be on the appellant.

5. *Jurisdictional Boundary Changes*. Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community

shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in 44 CFR §60.3.

(E) *Technical Provisions*.

1. *General*.

a. *Alteration or Relocation of Watercourse*.

(1) No encroachment, alteration, or improvement of any kind shall be made to any Watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.

(2) No encroachment, alteration, or improvement of any kind shall be made to any Watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the Watercourse in any way.

(3) In addition, FEMA and the Pennsylvania Emergency Management Agency shall be notified prior to any alteration or relocation of any Watercourse.

b. When Township of Middlesex proposes to permit the following encroachments:

(1) Any development that causes a rise in the base flood elevations within the floodway; or

(2) Any development occurring in Zones A1-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or

(3) Alteration or relocation of a stream (including but not limited to installing culverts and bridges) the applicant shall (as per 44 CFR §65.12):

(a) Apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.

(b) Upon receipt of the FEMA Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and / or revised floodway reflecting the post-project condition.

(c) Upon completion of the proposed encroachments, the applicant shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR § 67.

c. Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.

2. *Elevation and Floodproofing Requirements*.

a. *Residential Structures*.

(1) In AE, A1-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation.

(2) In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation determined in accordance with Section (D)2.(c).

(3) In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.

(4) The design and construction standards and specifications contained in the 2018 International Building Code (IBC) and in the 2018 International Residential Code (IRC) or the latest edition thereof adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

b. *Non-residential Structures*.

(1) In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the Regulatory Flood Elevation, or be designed and constructed so that the space enclosed below the Regulatory Flood Elevation:

(a) Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water; and

(b) Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(2) In A Zones, where no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the Regulatory Flood Elevation determined in accordance with Section (D)2.(c).

(3) In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.

(4) Any non-residential structure, or part thereof, made watertight below the Regulatory Flood Elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended in EP 1165.08.2-314, December 1995) or with some other equivalent standard. All plans and specifications for

such floodproofing shall be accompanied by a statement certified by a Registered Design Professional, which states that the proposed design and methods of construction are in conformance with the above referenced standards. There should be a statement submitted with the permit application and a statement submitted with the as-built Floodproofing Certificate prior to the issuance of the Certificate of Occupancy.

(5) Any non-residential structure that will be floodproofed must submit the following to the Floodplain Administrator along with the non-residential Floodproofing Certificate and prior to the issuance of the Certificate of Occupancy:

(a) An Inspection and Maintenance Plan detailing the annual maintenance of floodproofed components ensuring that all components will operate properly under flood conditions. Components that must be inspected include at a minimum:

i. Mechanical equipment such as sump pumps and generators,

ii. Flood shields and closures,

iii. Walls and wall penetrations, and

iv. Levees and berms (as applicable).

(b) Flood Emergency Operation Plan detailing the procedures to be followed during a flooding event and must include information pertaining to how all components will operate properly under all conditions, including power failures. The design professional must produce the plan. An adequate plan must include the following:

i. An established chain of command and responsibility with leadership responsibilities clearly defined for all aspects of the plan.

ii. A procedure for notification of necessary parties when flooding threatens and flood warnings are issued. Personnel required to be at the Building should have a planned and safe means of ingress and should have no other emergency response duties during a flood event. Alternates should be assigned in the event that the primary persons responsible are unable to complete their assigned duties under the plan.

iii. A list of specific duties assigned to ensure that all responsibilities are addressed expeditiously. The locations of materials necessary to properly install all floodproofing components must be included in the list.

iv. An evacuation plan for all personnel or occupants; those without duties for the flood emergency as well as those with duties for implementing the plan. All possible ingress and egress routes must be identified.

v. A periodic training and exercise program to keep personnel and occupants aware of their duties and responsibilities. Training drills should be held at least once a year and should be coordinated with community officials.

(6) The design and construction standards and specifications contained in the 2018 International Building Code (IBC) and in the 2018 International Residential Code (IRC) or the latest revision thereof as adopted by the Commonwealth of Pennsylvania, and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

c. *Space Below the Lowest Floor*.

(1) Basements are prohibited.

(2) Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, Building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.

(3) Designs for meeting this requirement must either be certified by a Registered Design Professional, or meet or exceed the following minimum criteria:

(a) A minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space installed on two (2) separate walls.

(b) The bottom of all openings shall be no higher than one (1) foot above grade.

(c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

d. *Historic Structures*. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this Ordinance, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

e. *Accessory Structures*. Structures accessory to a principal Building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

(1) The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.

(2) GFA shall not exceed six hundred (600) square feet.

(3) The structure will have a low damage potential.

(4) The structure will be located on the site so as to cause the least obstruction to the flow of flood waters.

(5) Power lines, wiring, and outlets will be elevated to the Regulatory Flood Elevation.

(6) Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.

(7) Sanitary facilities are prohibited.

(8) The structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a Registered Design Professional, or meet or exceed the following minimum criteria:

(a) A minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.

(b) The bottom of all openings shall be no higher than one (1) foot above grade.

(c) Openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(9) For accessory structures that are two hundred (200) square feet or larger in area (footprint) and that are below the base flood elevation, a signed Declaration of Land Restriction (Nonconversion Agreement) shall be recorded on the property deed prior to issuance of the Certificate of Occupancy.

3. *Design and Construction Standards*. The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

a. *Fill*. If fill is used, it shall:

(1) Extend laterally at least fifteen (15) feet beyond the Building line from all points;

(2) Consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;

(3) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;

(4) Be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and

(5) Be used to the extent to which it does not adversely affect adjacent properties.

b. *Drainage Facilities*. Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along Streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

c. *Water and Sanitary Sewer Facilities and Systems*.

(1) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.

(2) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.

(3) No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

(4) The design and construction provisions of the UCC and FEMA #348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.

d. *Other Utilities*. All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

e. *Streets*. The finished elevation of all new Streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

f. *Storage*. All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section (E)4., Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.

g. *Placement of Buildings and Structures*. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

h. *Anchoring*.

(1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

(2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

i. *Floors, Walls, and Ceilings*.

(1) Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the Building.

(2) Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.

(3) Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.

(4) Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other "water-resistant" material.

j. *Paints and Adhesives*.

(1) Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.

(2) Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.

(3) All wooden components (doors, trim, cabinets, etc.) used at or below the Regulatory Flood Elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

k. *Electrical Components*.

(1) Electrical distribution panels shall be at least three (3) feet above the base flood elevation.

(2) Separate electrical circuits shall serve lower levels and shall be dropped from above.

l. *Equipment*.

(1) Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation and shall be anchored to resist floatation, collapse, and lateral movement.

(2) Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.

m. *Fuel Supply Systems*. All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

n. *Uniform Construction Code Coordination*. The Standards and Specifications contained in 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this Ordinance, to the extent that they are more restrictive and supplement the requirements of this Ordinance.

(1) International Building Code (IBC) 2018 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania: (2)Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

(2) International Residential Building Code (IRC) 2018 or the latest revision thereof as adopted by the Commonwealth of Pennsylvania: Secs. R104, R105, R109, R322, Appendix E, and Appendix J.

4. *Development That May Endanger Human Life*.

a. In accordance with the Pennsylvania Flood Plain Management Act as amended, and the regulations originally adopted by the Department of Community and Economic Development, to be further adopted or amended by the Pennsylvania Emergency Management Agency in consultation with the Department of Environmental Protection required by the Act, any new or substantially improved structure which:

(1) Will be used for the production or storage of any of the following dangerous materials or substances; or

(2) Will be used for any activity requiring the maintenance of a supply of more than five hundred fifty (550) gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or

(3) Will involve the production, storage, or use of any amount of radioactive substances;

(4) Shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- Acetone
- Ammonia
- Benzene
- Calcium carbide
- Carbon disulfide
- Celluloid
- Chlorine
- Hydrochloric acid
- Hydrocyanic acid

- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel oil, etc.)
- Phosphorus
- Potassium
- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

b. Within any Floodway Area, any structure of the kind described in Subsection A., above, shall be prohibited. Where permitted within any Identified Floodplain Area, any new or substantially improved residential structure of the kind described in Section (E)4.(a), above, shall be elevated to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation and built in accordance with Sections (E)1., (E)2., and (E)3.

c. Where permitted within any Identified Floodplain Area, any new or substantially improved non-residential structure of the kind described in Section (E)4.(a) above, shall be built in accordance with Sections (E)1., (E)2., and (E)3 including:

(1) Elevated, or designed and constructed to remain completely dry up to at least one and one half (1 ½) feet above base flood elevation, and

(2) Designed to prevent pollution from the structure or activity during the course of a base flood.

d. Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

5. Special Requirements for Subdivisions and Development. All subdivision proposals and development proposals containing at least 50 Lots or at least 5 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR). Submittal requirements and processing fees shall be the responsibility of the applicant.

6. *Special Requirements for Manufactured Homes*.

a. Within any Floodway Area/District, manufactured homes shall be prohibited.

b. Where permitted within any Identified Floodplain Area, all manufactured homes, and any improvements thereto, shall be:

(1) Placed on a permanent foundation;

(2) Elevated so that the lowest floor of the manufactured home is at least one and one half (1 ½) feet above base flood elevation; and

(3) Anchored to resist flotation, collapse, or lateral movement.

c. *Equipment Requirement*.

(1) Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation and shall be anchored to resist floatation, collapse, and lateral movement.

(2) Ductwork shall be elevated to or above the Regulatory Flood Elevation or floodproofed to remain water resistant.

d. Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2018 "International Residential Building Code" or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 PA Code Ordinance 401-405 shall apply.

e. Consideration shall be given to the installation requirements of the 2018 IBC, and the 2018 IRC or the latest revision thereto as adopted by the Commonwealth of Pennsylvania, and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit's installation.

7. *Special Requirements for Recreational Vehicles*.

a. Within any Identified Floodplain Area the storage of recreational vehicles shall be prohibited. If a variance is obtained in accordance with the criteria in Section (H), then the following provisions apply:

b. Recreational vehicles in Zones A, A1-30, AH and AE must:

(1) Be on the site for fewer than one hundred eighty (180) consecutive days;

(2) Be fully licensed and ready for highway use, and

(3) Be removed from the floodplain when an official flood warning is issued by Middlesex Township.

(F) *Activities Requiring Special Permits.*

1. *General*. In accordance with the administrative regulations originally adopted by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act as amended, to be further adopted or amended by the Pennsylvania Emergency Management Agency in consultation with the Department of Environmental Protection as required by the Act, the following activities shall be prohibited within any Identified Floodplain Area unless a Special Permit has been issued by the Township of Middlesex:

a. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:

(1) Hospitals.

(2) Nursing Homes.

(3) Jails or Prisons.

b. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

2. *Application Requirements for Special Permits*. Applicants for Special Permits shall provide five copies of the following items:

a. A written request including a completed Permit Application Form.

b. A small scale map showing the vicinity in which the proposed site is located.

c. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:

(1) North arrow, scale and date;

(2) Topography based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at intervals of two (2) feet;

(3) All property and Lot lines including dimensions, and the size of the site expressed in acres or square feet;

(4) The location of all existing Streets, driveways, other access ways, and parking areas, with information concerning widths, pavement types and construction, and elevations;

(5) The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development;

(6) The location of the floodplain boundary line, information and spot elevatw

d. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:

(1) Sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior Building elevations, as appropriate;

(2) For any proposed Building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;

(3) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood;

(4) Detailed information concerning any proposed floodproofing measures, including the Flood Emergency Operation Plan and the Inspection and Maintenance Plan;

(5) Cross section drawings for all proposed Streets, driveways, other accessways, and parking areas, showing all Rights-of-Way and pavement widths;

(6) Profile drawings for all proposed Streets, driveways, and vehicular accessways including existing and proposed grades; and

(7) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

e. The following data and documentation:

(1) Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;

(2) Certification from a Registered Design Professional that the proposed construction has been adequately designed to protect against damage from the base flood;

(3) A statement, certified by a Registered Design Professional, which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a base flood, including a statement concerning the effects such pollution may have on human life;

(4) A statement certified by a Registered Design Professional, which contains a complete and accurate description of the effects the proposed development will have on base flood elevation and flows;

(5) A statement, certified by a Registered Design Professional, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the base flood elevation and the effects such materials and debris may have on base flood elevation and flows;

(6) The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development";

(7) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control;

(8) Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and

(9) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.

3. *Application Review Procedures*. Upon receipt of an application for a Special Permit by the Township of Middlesex the following procedures shall apply in addition to those of Subsection (C):

   a. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the Cumberland County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Township Planning Commission and Township Engineer for review and comment.

   b. If an application is received that is incomplete, the Township of Middlesex shall notify the applicant in writing, stating in what respect the application is deficient.

   c. If the Township decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.

   d. If the Township approves an application, it shall file written notification, together with the application and all pertinent information, with the Pennsylvania Emergency Management Agency, by registered or certified mail, within five (5) working days after the date of approval.

   e. Before issuing the Special Permit, the Township of Middlesex shall allow the Pennsylvania Emergency Management Agency thirty (30) days, after receipt of the notification by the Agency, to review the application and decision made by the Township of Middlesex.

   f. If the Township does not receive any communication from the Pennsylvania Emergency Management Agency during the thirty (30) day review period, it may issue a Special Permit to the applicant.

   g. If the Pennsylvania Emergency Management Agency should decide to disapprove an application, it shall notify the Township of Middlesex and the applicant, in writing, of the reasons for the disapproval, and the Township of Middlesex shall not issue the Special Permit.

4. *Special Technical Requirements*.

   a. In addition to the requirements of Section (E), the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Section (E) of this Ordinance or in any other code, ordinance, or regulation, the more restrictive provision shall apply.

   b. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:

      (1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:

a. The structure will survive inundation by waters of the base flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE.

b. The lowest floor (including basement) will be elevated to at least one and one half (1½) feet above base flood elevation.

c. The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood.

(2) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

(3) All hydrologic and hydraulic analyses shall be undertaken only by Registered Design Professional, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Township of Middlesex and the Pennsylvania Emergency Management Agency.

(G) *Existing Structures in Identified Floodplain Areas*

1. *Existing Structures*. The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section (G)2. shall apply.

2. *Improvements*. The following provisions shall apply whenever any improvement is made to an existing structure located within any Identified Floodplain Area:

a. No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.

b. No expansion or enlargement of an existing structure shall be allowed within AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.

c. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.

d. The above activity shall also address the requirements of the 34 PA Code, as amended and the 2018 IBC and the 2018 IRC or most recent revision thereof as adopted by the Commonwealth of Pennsylvania.

e. Within any Floodway Area/District as specified under Section (D)2.(a) no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

f. Within any AE Area/District without Floodway as specified under Section (D)2.(b), no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any Watercourse, unless the

appropriate permit is obtained from the PA Department of Environmental Protection Southcentral Regional Office.

(H) *Variances*

1. *General*. If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the Township of Middlesex Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.

2. *Variance Procedures and Conditions*. Requests for variances shall be considered by the Township of Middlesex Zoning Hearing Board in accordance with the procedures contained in Section (C)10. and the following:

   a. No variance shall be granted for any construction, development, use, or activity within any Floodway Area/District that would cause any increase in the BFE.

   b. No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.

   c. No variances shall be granted for a proposed accessory structure that exceeds six hundred (600) square feet in size. A signed Non-Conversion Agreement is required as a condition of receiving the variance.

   d. Except for a possible modification of the Regulatory Flood Elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit, Section (F).6., or to Development Which May Endanger Human Life, Section (E)4.

   e. If granted, a variance shall involve only the least modification necessary to provide relief.

   f. In granting any variance, the Township of Middlesex Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.

   g. Whenever a variance is granted, the Township of Middlesex Zoning Hearing Board shall notify the applicant in writing that:

      (1) The granting of the variance may result in increased premium rates for flood insurance.

      (2) Such variances may increase the risks to life and property.

   h. In reviewing any request for a variance, the Township of Middlesex Zoning Hearing Board shall consider, at a minimum, the following:

      (1) That there is good and sufficient cause.

      (2) That failure to grant the variance would result in exceptional hardship to the applicant.

(3) That the granting of the variance will neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense, nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

i. A complete record of all variance requests and related actions shall be maintained by the Township of Middlesex Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

j. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one (1) percent annual chance flood.

Section 2.20 Redevelopment Opportunity Overlay District (ROO)

(A) *Purpose*. The purpose of the Redevelopment Opportunity Overlay District (ROO District) is as follows:

1. Recognize the uniqueness of the Harrisburg Pike (SR 0011) corridor area including around the convergence of major transportation corridors (Interstate 76 (SR 0076), Interstate 81 (0081) and Harrisburg Pike, i.e., the "Miracle Mile");

2. Encourage reinvestment, revitalization, and overall enhancement of the Miracle Mile corridor area via infill, replacement and redevelopment opportunities on previously developed or underutilized land by providing greater flexibility in both the variety of permitted uses and development standards; and

3. Provide an optional set of standards that help to encourage innovation and promote flexibility, economy, and ingenuity in development (i.e., infill, replacement and redevelopment) which generally is consistent with the applicable provisions of the Pennsylvania Municipalities Planning Code, including Article VI (specifically §§ 603(c)(5), 603(c)(6), 605(2)(i), 605(2)(vii) and 605(3)), the Cumberland County Comprehensive Plan and the Middlesex Township Comprehensive Plan.

(B) *Boundaries of District*. The boundaries of the ROO District shall be as delineated on the Zoning Map specified in Section 2.02 of this Ordinance.

(C) *Applicability*. The ROO District shall be an optional overlay district for certain land as depicted on the official Middlesex Township Zoning Map. While the ROO Overlay confers alternative use and development options to be employed at the discretion of the Applicant, any land located within the ROO District may be developed pursuant to either the standards of the ROO District or the standards of the underlying zoning district, but not both.

(D) *Required Utilities*. Public water and public sewer shall be required.

(E) *Use Regulations*.

1. Permitted uses and use regulations for permitted uses are specified in Article 3 Zoning Uses.

2. Unless otherwise modified by the standards specified under the ROO District, all uses permitted within this District shall also comply with the Supplemental Regulations contained in Article 4 of this Ordinance.

(F) *Bulk and Area Regulations*. Table 2.20 specifies the district's bulk and area regulations, which shall prevail over the underlying zoning district's bulk and area standards.

Table 2.20, Redevelopment Opportunity Overlay District (ROO) Bulk and Area Regulations

PERMITTED USES PER TABLE 3.02.1	BULK AND AREA REGULATIONS							
	Min. Lot Size	Min. Lot Width		Max. Impervious Coverage	Min. Yard Setbacks			Max. Building Height
					Front	Side	Rear	
ON-LOT WATER AND SEWER								
All Permitted Uses as Specified in Table 3.02.1	None	50 ft.		70%	50 ft.	10 ft., except that 25 ft. but not less than 50% of the building height for a nonresidential use adjoining residential use or district		65 ft.

(G) *Density*. The following maximum densities shall apply to the specified uses.

1. Multi-Family Dwellings (e.g., apartments or condominiums): 18 dwelling units per net acre.

(H) *Master Plan Requirement*.

1. For a redevelopment of an existing developed property(ies) or development of vacant property(ies), development within the ROO District shall be depicted on a master plan prepared and submitted pursuant to the Conditional Use requirements specified in Section 1.16 of this Ordinance.

2. For redevelopment of existing developed properties, or an expansion of up to twenty-five (25) percent of an existing Building, development within the ROO District shall be depicted on a land development plan, with no master plan or Conditional Use process required. The Land Development Plan shall be prepared pursuant to the requirements of the Middlesex Township Subdivision and Land Development Ordinance.

3. An applicant must demonstrate through the required master plan how the proposed ROO District development meets the design criteria listed Subsection (I) below. The standards under each criterion must be used to satisfy the criterion, or the applicant must request a modification as set forth in Subsection (J) below. Before a development may be approved, the Township Board of Supervisors must make findings that the proposal satisfies the standards and applicable master plans for the proposed ROO Development.

(I) *Mixed Use Design Criteria*.

1. Non-residential uses shall be clustered together into groupings to allow for shared use of vehicle parking areas and loading areas.

2. At least twenty (20) percent of the Building area shall be mixed use containing both residential and non-residential uses. Vertical mixed-use construction shall be encouraged.

3. Residential and non-residential buildings shall be grouped along Streets to promote pedestrian connectivity and walkability between buildings.

4. *Multimodal Design*.

   a. Pedestrian facilities shall connect the development to adjacent land uses and provide connections through the development to the public Street Right-of-Way.

b. Public or private Streets shall connect the development to adjacent neighborhoods and zoning districts.

c. Surface parking shall be located behind buildings, toward the interior of Lots, and should be screened from view from adjacent Streets. Alternative surface parking designs may be approved by the Board of Supervisors, but such designs shall clearly demonstrate the methods and/or technologies that provide safety for pedestrians and bicyclists.

d. Parking shall not be located on Street corners.

e. Cul-de-sacs are prohibited.

f. *Pedestrian Scaled Lighting*.

(1) Pedestrian scaled lighting shall be used to enhance security and improve visibility of sidewalks.

(2) Pedestrian scaled Street lighting shall be designed based on the Illuminating Engineering Society of North America Design Guideline: Recommended Lighting for Walkways & Class 1 Bikeways (IESNA DG-5-94).

g. *Access Management*. The functional classification and the speed limit of a Street that abuts a property proposed for development will determine the location, number, and spacing between vehicular access points allowed onto the Street. Functional classification of Streets can be found in the Middlesex Township Comprehensive Plan (Figure 8.1 Roadway Classification and Traffic Volumes Map dated October 18, 1999) and in consultation with the Township Engineer.

(1) Vehicular access to properties proposed for development shall be controlled and provided by use of driveways in accordance with at least one of the following access management requirements set forth in Subsections (I)4.g.(1)(a), (I)4.g.(1)(b), and (I)4.g.(1)(c) below:

(a) Existing or proposed driveways that provide access to properties proposed for development and intersect an Arterial or Collector Street shall be separated from other existing or proposed driveways at minimum distances of:

i. Six hundred (600) feet for Arterial Streets; and

ii. Three hundred (300) feet for Collector Streets.

Separation distances shall be measured from the centerline of one driveway to the centerline of the next driveway. When this requirement has been satisfied, access locations must be checked to assure compliance with safe sight distance. Safe sight distance must be measured per Pennsylvania Department of Transportation Publication 201, Engineering and Traffic Studies.

(b) Provide shared vehicular access between two or more adjoining land uses that make use of a shared driveway onto an adjoining Arterial Street or Collector Street, pursuant to Section 703.I.7 of

the Middlesex Township Subdivision and Land Development Ordinance.

(c) In circumstances where it is not possible to provide vehicular access in accordance with Subsections (I)4.g.(1)(a) and (I)4.g.(1)(b), above, the proposed development shall be permitted to have one (1) driveway that intersects the cartway of the applicable Collector or Arterial Street and shall not exceed twenty-four (24) feet in width (exclusive of curb radii) or such greater width that is required by the Pennsylvania Department of Transportation. If in the event a developer provides evidence that this requirement impedes on the flow of tractor-trailers that would deliver goods to the Lot, the developer may widen the cartway to the minimum width it would take to allow Truck deliveries to occur safely on the Lot.

(2) Driveways servicing two or more adjoining land uses, shall be improved to local Street standards as shown in Table 703.1 of the Middlesex Township Subdivision and Land Development Ordinance, and Intersection Design shall be for a Collector Street with an Arterial Street intersection, as shown in Table 703.2 of the Middlesex Township Subdivision and Land Development Ordinance.

(3) As an incentive to implement Subsections (I)4.g.(1)(a) and (I)4.g.(1)(b), above, a developer that implements either Subsection (I)4.g.(1)(a) or Subsection (I)4.g.(1)(b) shall be permitted to increase:

(a) The Impervious coverage limitation on its Lot by an additional ten (10) percent, or

(b) The height limitation by an additional twenty (20) feet.

h. *Shared Parking*.

(1) Shared parking shall be applied when land uses have different parking demand patterns and are able to use the same parking spaces/areas throughout the day, especially for multi-story, vertically mixed-use buildings.

(2) The minimum number of parking spaces for a development or where shared parking strategies are proposed shall be determined by a study prepared by the applicant following the procedures of the either Urban Land Institute's Shared Parking (3rd Edition, February 2020) or Institute of Transportation Engineers Parking Generation Manual (5th Edition, February 2019).

(3) The actual number of parking spaces required shall be based on well-recognized sources of parking data such as the above cited ULI or ITE reports. If standard rates are not available or limited, the applicant may collect data at similar sites to establish local parking demand rates. If the shared parking plan assumes use of an existing parking facility, then field surveys shall be conducted to determine actual parking accumulation. If possible, these surveys should consider the seasonal peak period for the combination of land uses involved.

(4) *Shared Parking Agreement*. If a privately-owned parking facility is to serve two or more separate properties, a legal agreement between property owners guaranteeing access to, use of, and management of designated spaces is required.

(5) *Shared Parking Plan*. The following are required submissions for a shared parking proposal:

(a) Site plan of parking spaces intended for shared parking and their proximity to land uses that they will serve.

(b) A signage plan that directs drivers to the most convenient parking areas for each particular use or group of uses (if such distinctions can be made).

(c) A pedestrian circulation plan that shows connections and walkways between parking areas and land uses.

(d) These paths should be as direct and short as possible.

(e) A safety and security plan that addresses lighting and maintenance of the parking areas.

i. *Outdoor Trash Disposal*. Outdoor trash dumpsters, collection areas and receptacles and mechanical equipment not enclosed in the main structure shall be located behind buildings (or to the extent possible, within the Building envelope) and screened in a manner compatible with the proposed architecture and landscaping. Said screening shall be designed to reduce the visibility of said trash disposal facilities and prevent the escape of waste, debris, or litter from the site. Said facilities and screening shall be designated on the master plan. Access to said facilities shall be from the Alley or service drive.

(J) *Modifications*. The Board of Supervisors may allow for modification of the ROO District Mixed Use Design Criteria specified in Subsection (I) above to achieve the Conditional Use approval outcomes of the master plan required under Subsection (H) above.

Section 2.21 Riparian Buffer Overlay District (RBO)

(A) *Purpose*. Under the authority of the MPC, as amended, other Commonwealth and federal statutes, and in recognition of the fact that natural features contribute to the quality of life in the Township, the following riparian buffer regulations are enacted to provide reasonable controls governing the restoration, conservation, disturbance, and management of existing riparian corridors by establishing a designated Riparian Buffer Overlay District (RBO).

(B) The Riparian Buffer Overlay Zoning District shall apply to all properties or any other improvements that require subdivision or land development plan submission if they are within or touch the Riparian Buffer Overlay Zoning District within Middlesex Township.

(C) Any required riparian buffer preservation and maintenance shall remain the sole responsibility of each individual property Owner or as otherwise stipulated by the stormwater management design criteria specified in the Middlesex Township Subdivision and Land Development Ordinance.

(D) In addition, the specific purposes and intent of this section are to:

1. Conserve the natural features important to land or water resources (e.g., headwater areas, groundwater recharge zones, floodways, floodplains, springs, streams, wetlands, woodlands, prime wildlife habitats).

2. Conserve natural, scenic, and recreation areas within and adjacent to riparian areas for the region's benefit.

3. Reduce the amount of nutrients, sediment, organic matter, pesticides, and other harmful substances that reach watercourses, wetlands, subsurface, and surface water bodies by using scientifically proven processes including filtration, deposition, absorption, adsorption, plant uptake, and denitrification, and by stabilization. Further, to minimize concentrated flows using level spreaders and/or similar stormwater management devices used to disburse concentrated flow uniformly over the ground as sheet flow.

4. Improve and maintain the safety, reliability, and adequacy of the Township's water supply for domestic, agricultural, commercial, industrial, and recreational uses along with sustaining diverse populations of aquatic plants and animals.

5. Regulate the land use, siting, and engineering of development to be consistent with the intent and objectives of this section and accepted conservation practices, as well assure that the impacts of such development remain within the carrying capacity of existing natural resources.

6. Assist in the implementation of pertinent state laws concerning erosion and sediment control practices, specifically erosion control, of the Pennsylvania Clean Streams Law, 1397 Act 394, P.L. 1987, Ordinance 102 of the Administrative Code (as amended October 10, 1980, Act 157 P.L.), Title 25, and any subsequent amendments thereto, as administered by the Pennsylvania Department of Environmental Protection and the Cumberland County Conservation District.

(E) *Definition, Establishment, Width Determination, Applicability, and Interpretation*.

1. *Definition*. The Riparian Buffer Overlay is a zoning district consisting of areas surrounding Perennial Watercourses. These areas intercept surface water runoff, subsurface flow, and deep groundwater flows from upland sources and remove or buffer the impact of nutrients, sediment, organic matter, pesticides, or other pollutants prior to entry into surface waters.

2. *Establishment*. The establishment of a Riparian Buffer Overlay Zoning District applies to the following areas which are identified on the officially adopted Zoning Map of Middlesex Township:

   a. Lands adjacent to perennial watercourses within Middlesex Township.

   b. Water bodies and wetlands as regulated by state and/or federal designation.

3. *Width Determination*.

   a. The boundary of the riparian buffer shall be all those areas located parallel to and a minimum distance of fifty (50) feet from each side of the top of banks of all perennial watercourses within the Township; measured in a direction away from the perennial Watercourse, horizontally on a line parallel to the water surface in the perennial Watercourse, beginning at the top of the defined bank at bankfull flow, with the location of the top of defined bank being reviewed by the Township Engineer and approved by the Board of Supervisors.

   b. Where slopes of twenty-five (25) percent or greater are located within the fifty (50) foot riparian buffer area, this buffer area shall extend the entire distance of the steep sloped area.

   c. The Riparian Buffer Overlay Zoning District shall also include a minimum buffer width of fifty (50) feet around the entire perimeter of the outer edge of wetlands and water bodies greater than 5,000 square feet in area and not located along a stream.

4. *Applicability*. The provisions of this section shall apply as follows:

   a. The developer/Applicant shall be responsible for identifying the location of the Riparian Buffer Overlay Zoning District boundary on any plan that is submitted to Middlesex Township for the following:

      (1) Subdivision or land development as defined in the Middlesex Township Subdivision and Land Development Ordinance.

      (2) Approval for improvements that require a zoning or Building permit. Although mitigation may not be required for such activity, the boundary must still be delineated. Such permit(s) shall only be required when construction or erection of any buildings or structure(s) within or touching the Riparian Buffer Overlay Zone is located on the ground or attached to something on the ground and is greater than 1,000 square feet in size.

   b. This initial delineation of the overlay district boundary shall be subject to review and approval by the Zoning Officer.

   c. These requirements shall not apply to any existing (as of the date of the enactment of this Ordinance) primary or accessory Buildings or to any of the following: agricultural uses, transportation facilities, fences, lawns, gardens, utility lines, decks and piers, or to interior renovations, septic and essential services.

5. *Interpretation of Ordinance Provisions*. In interpreting the language of the Riparian Buffer Overlay District and the extent of the underlying zoning district(s) regulating the use of property, where doubt exists between regulations, the stricter regulation shall govern. Any challenges to the Township's interpretation of the applicability of the Riparian Buffer Overlay Zoning District shall be appealed in accordance with the requirements outlined Section 1.13 Appeals of this Ordinance.

(F) *Uses Permitted*. The following uses not involving Buildings or Structures are permitted in the Riparian Buffer Overlay Zoning District. No buildings shall be constructed, or impervious areas shall be created within the riparian buffer area and no land disturbance or woodland disturbance, except regulated activities permitted by the State (i.e. permitted stream or wetland crossing); provisions for unpaved trail access; selective removal of a safety hazard; removal of diseased trees; invasive or noxious plant species; and vegetation management in accordance with a Township approved landscaping plan or Open Space management plan or a soil or stream conservation project, including reforestation and stream bank stabilization approved by the Township, County, State or Federal governments.

1. *Uses Permitted by Right*. The following uses, when permitted in the underlying zoning district, shall be permitted by right:

   a. Agricultural Operation not to include grazing.

   b. Common Open Space.

   c. Forestry Operation in accordance with the Pennsylvania Clean Stream Law (35 P.S. §§ 691.1—691.1001) and regulations at 25 Pa. Code Ordinance 102, plus the best management practices outlined in the 2001 edition of the Pennsylvania State University College of Agricultural Sciences' publication entitled *Best Management Practices for Pennsylvania Forests*.

   d. Level spreaders or other similar stormwater structures used to disperse concentrated stormwater runoff uniformly over the ground surface as sheet flow. These devices shall be located a minimum of fifty (50) feet from the edge of any identified Watercourse or water body, subject to any other conditions imposed by the Board of Supervisors.

   e. Naturalized stormwater basins in compliance with the Pennsylvania Clean Stream Law (35 P.S. §§ 691.1—691.1001) and regulations at 25 Pa. Code Ordinance 102. The entire basin shall be located a minimum of fifty (50) feet from the edge of any identified Watercourse or water body, subject to any other conditions imposed by the Board of Supervisors.

   f. Nature Preserve.

   g. New stream crossings for roads, centralized sewer and/or water lines and public utility transmission lines and/or their related appurtenances (i.e., towers, well houses, pump and lift stations), provided that they are:

      (1) Designed and installed in accordance with the stream crossing standards outlined under Section 2.17(H) of this Ordinance.

      (2) All disturbance must be mitigated at a ratio of 1:1 for each square foot of disturbance and compliance with the Pennsylvania Clean Stream Law (35 P.S. §§ 691.1—691.1001) and regulations at 25 Pa. Code Ordinance

102, plus the best management practices outlined i in the 2001 edition of the Pennsylvania State University College of Agricultural Sciences' publication entitled *Best Management Practices for Pennsylvania Forests*.

h. Public Park.

i. Passive use areas such as camps, campgrounds and picnic areas and active recreation areas such as ball fields, playgrounds and courts. These uses shall be designed in a manner that shall not create concentrated stormwater flow; subject to any other conditions as imposed by the Board of Supervisors. The use of level spreaders or similar devices may be required.

j. Placement of research and monitoring devices such as staff gauges, water recording, water quality testing, cross vanes, weirs and related demonstration facilities.

k. Removal of trees where such removal is necessary as a means to eliminate dead, diseased or hazardous stands of trees that jeopardize public safety, provided that such removal is in compliance with the Pennsylvania Clean Stream Law (35 P.S. §§ 691.1—691.1001) and regulations at 25 Pa. Code Ordinance 102, plus the best management practices outlined in the 2001 edition of the Pennsylvania State University College of Agricultural Sciences' publication entitled *Best Management Practices for Pennsylvania Forests*.

l. Stream bank stabilization and/or recommended native tree reforestation, in compliance with the recommendations of this section and as outlined in the latest edition of the Pennsylvania State University College of Agricultural Sciences' publication entitled *Best Management Practices for Pennsylvania Forests*.

m. Stream crossings for farm vehicles and/or livestock if part of a federal, state and/or privately funded Cumberland County Conservation District and/or local nonprofit riparian buffer improvement project.

n. Wildlife sanctuaries, nature preserves, forest preserves, fishing areas, passive areas of public and private parklands and native planting and reforestation in compliance with the recommendations of this section and the best management practices outlined in the latest edition of the Pennsylvania State University College of Agricultural Sciences' publication entitled *Best Management Practices for Pennsylvania Forests*.

2. *Required Yards*. The required setback area may incorporate a portion of the zoning overlay; however, at least one-half (½) of each required front, side or rear yards on any private Lots shall be entirely outside of the Riparian Buffer Overlay District.

(G) *Riparian Buffer Management*. No development activities shall be permitted within the Riparian Buffer Overlay Zoning District unless specifically permitted by this section. All such activities are subject to the following:

1. *Subdivision and Land Development*. Within the Riparian Buffer Overlay Zoning District, subdivision, land development or redevelopment shall only be permitted when the impacts of such actions are mitigated at a 1:1 square foot replacement ratio.

2. Zoning and Building Permits. For activities that only require a zoning and/or Building Permit and include improvements within the Riparian Buffer Overlay Zoning District, riparian buffer

replacement or restoration is recommended only. If provided, the buffer should be at a 1:1 square foot replacement ratio for all disturbances.

3. Projects for which mitigation is only recommended and for which a buffer is provided shall identify the existing conditions (vegetation, floodplain, wetlands, soils, slopes, etc.), all proposed activities and, if applicable, any proposed management techniques, including any measures necessary to offset disturbances to land within the Riparian Buffer Overlay Zoning District.

4. *Vegetation Selection*.

a. When a subdivision or land development is proposed and there is no established vegetated or wooded riparian buffer, forested and unforested vegetation shall be established through natural succession, by selective planting or vegetation to stimulate growth of native species and discourage invasive species. Planting selection and planting in the riparian buffer conservation area shall be in accordance with riparian forested buffer guidance published by the Township, County, State or Federal governments.

b. To function properly, dominant native vegetation in the riparian buffer should be selected from the list of native plants most suited to riparian areas The Township may also require that the suitability of planting species be verified by local qualified experts at the Cumberland County Conservation District, the Pennsylvania State Cooperative Extension and/or other state and federal forest agencies.

c. As part of riparian buffer restoration, it is required that any/all noxious species existing within the buffer area and/or within the site be removed. Property owners and developers should ensure that invasive species are removed to not adversely impact any native species planted.

d. For maximum effect, the riparian buffer should be composed of three layers of vegetation or more.

(1) Canopy and understory trees to form a tree canopy. Canopy and understory trees should be one and one-half (1-½) to two and one-half (2-½)) calipers in diameter at breast Height, eight (8) feet to ten (10) feet tall at planting. Canopy trees should be planted a minimum of twenty (20) feet to twenty-five (25) feet on center in staggered rows, and understory trees should be planted a minimum of fifteen (15) feet on center, also in staggered rows.

(2) Shrubs to support a dense, healthy and diverse understory. Shrubs should be planted in between canopy and understory trees at a minimum distance of between three (3) feet and five (5) feet apart.

(3) Grasses, sedges, flowering perennials and other groundcover. Grasses, sedges, flowering perennials and groundcovers should be planted one (1) foot to three (3) feet apart.

(H) *Stream Crossing Standards*. All stream crossings permitted under Section 2.21(E)1 shall comply with and incorporate as required the following minimum standards:

1. Any stream crossings requiring any activity in, under and/or over any body of water shall first consult the PA Department of Environmental Protection's South Central Regional Office, Watershed Management Permitting and Technical Services Section.

2. The width of any Right-of-Way shall not be greater than the minimum Right-of-Way width required by Township ordinances unless additional Right-of-Way is offered for dedication.

3. Stream crossings shall be designed to cross in a manner that minimizes disturbance.

4. Stream crossings shall be separated by a minimum of 1,000 feet of stream length.

5. Bridges, with the appropriate federal and/or state permits, shall be used in place of culverts when crossings would require a seventy-two-inch-or-greater diameter pipe. When culverts are installed, they shall be designed to retain the natural stream channel bottom to ensure the passage of water during low flow or dry weather periods.

(l) *Inspection of Riparian Buffer Overlay Zoning District*. The Riparian Buffer Overlay Zoning District may also be inspected periodically by the Township Engineer or Zoning Officer to determine compliance with this Section or when excessive or potentially problematic erosion, sedimentation, hazardous trees or an unauthorized activity or structure is brought to the attention of Middlesex Township officials.

Section 2.22 Wellhead Protection Overlay District (WPO)

(A) *Purpose*. The purpose of the WPO District is to safeguard the public health, safety, and welfare, by providing regulation of land use and the manufacture, use, storage, transport, or disposal of hazardous and other substances which pose a threat to the quality and quantity of groundwater being extracted from the Middlesex Township Municipal Authority groundwater supply well(s). It is the further intent of this District to recognize and protect a uniquely vulnerable groundwater resource area, defined by a carbonate geologic formation which is prone to the development of sinkholes and fractures that allow rapid infiltration of contaminants to these wells.

It shall further be the intent of this District to achieve the following objectives:

1. To limit land uses and activities involving the generation, use, transport, or storage of hazardous substances;

2. To regulate other land uses and activities with the potential to pollute groundwater;

3. To protect and enhance surface and groundwater quality from the impacts of development on stormwater quality with Best Management Practices; and

4. To alert landowners, potential buyers, appraisers, assessors and lessees of the legal restrictions inherent in certain land uses and activities in this Overlay District.

(B) *Authority*. Section 1428 of the Federal Safe Drinking Water Act Amendments of 1986 requires states to establish Wellhead Protection Programs to protect groundwater from contamination. In Pennsylvania, the responsibilities for development and implementation of Wellhead Protection Programs is shared between water suppliers, the Commonwealth, and local municipal governments. The Pennsylvania Department of Environmental Protection (DEP) recognizes that, in Pennsylvania, DEP is responsible for regulating water suppliers and discharges of contaminants. DEP also recognizes that it is the responsibility of local governments to regulate land use. Middlesex Township is empowered, under the provisions of the MPC to enact ordinances regulating development and land uses.

(C) *General Provisions*. General provisions relating to the WPO District are as follows:

1. No area within the WPO District shall hereafter be used without full compliance with the terms of this Section and other applicable federal, state, and local regulations.

2. The WPO District established hereby shall be an overlay on any zoning district(s) now or hereafter enacted to regulate the use of land in Middlesex Township.

   a. The WPO District shall have no effect on the permitted uses in the underlying zoning district, except where said uses are intended to be located within the boundaries of the WPO District, as defined herein, and said uses are in conflict with the permitted uses in the WPO District.

   b. In those areas of the Township where the WPO District applies, the requirements of the WPO District, if more restrictive, shall supersede the requirements of the underlying zoning district(s).

   c. The land use restrictions and the land development regulations set forth herein have been carefully determined through engineering and scientific study to be the minimum restriction or regulation necessary to protect the future quality and quantity of this Township's public water supply. Therefore, there shall be no change

in the underlying zoning districts or zoning regulations, such that density and impervious coverage limitations are affected, without further engineering and scientific study documenting that any such change will not adversely affect this Township's public water supply.

d. In the event of a judicial decision(s) which modifies, changes, or reduces any: (1) restriction on the use or development of land, (2) boundary for Wellhead Protection Area zones or WPO District, or (3) underlying zoning classifications within the WPO Districts, such modification, change or reduction shall be to the minimum extent necessary to satisfy both the judicial objection and the purpose of this Section.

3. The provisions hereof relating to the WPO District shall not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where the provisions relating to the WPO District impose greater restrictions, such provisions shall prevail.

4. The following activities and land uses are exempt from the provisions of the WPO District:

a. Retail sales establishments that store and handle hazardous substances for resale in their original, unopened containers.

b. Office use where there is no storage and handling of hazardous substances.

c. The transportation of any hazardous substance through the Wellhead Protection Areas (WHPAs) zone(s) defined in Subsection (D) provided the transporting vehicle is in transit.

d. Storage and use of hazardous substances in conjunction with municipal water supply and treatment activities.

e. *Existing Land Uses*. All lawfully existing land uses located within a WHPAs at the time this Ordinance is enacted shall be exempt from the application of this Ordinance. Nothing herein shall be deemed to exempt such existing land uses from compliance with any other statute, ordinance or rule of common law.

5. Disputes regarding boundary designations of or within the WPO District or any zone shall be decided by the Township Engineer. Any decision concerning the boundary of the WPO District by the Township Engineer may be appealed by an aggrieved party to the Zoning Hearing Board. All other disputes, and the authority for the administration and enforcement of this Ordinance, shall be with the Zoning Officer.

6. In any dispute arising under the provisions of this Section, the burden of proof shall be on the Person(s) challenging the Ordinance, or provisions therein, upon presentation of clear and convincing evidence. The governing body and the Zoning Hearing Board shall have the right to consult with independent consultants for purposes of testing, analysis, opinion, or the like. All costs associated with such consultation shall be shared equally by the parties to the dispute.

(D) *Designation and Interpretation of District Boundary*.

1. The WPO District consists of all lands located within the Wellhead Protection Area (WHPA) zone defined below.

a. WHPA Zone 1 is the protective area surrounding the Middlesex Township Municipal Authority Well #1. The protective area is a minimum 400-foot radius measured from the wellhead.

2. *Boundary Interpretation*.

a. Each application for land development or subdivision containing land within the WPO District shall be submitted in accordance with such other provisions of the ordinances of Middlesex Township as are applicable thereto. Any area of the WPO District that falls within the subject Lot or Lots shall be shown on the site plan through shading of such area or areas.

b. Any party seeking land development and/or subdivision approval in what might be a WPO District shall have the burden to present evidence of the boundaries of the District in the area in question. This presentation must include applicable geographic data with respect to the property and any other pertinent documentation for consideration. The Township Engineer shall review the information and shall make determination regarding the boundaries of lands within the WHPA.

(E) *Regulated Land Uses and Activities*.

1. Table 2.22 WPO District Regulated Land Uses and Activities sets forth various land uses/activities and the extent of regulation permitted within the WHPA Zone 1. In the event of judicial decision affecting any of the land uses/activities or regulations set forth herein, it is the intent of this Ordinance that any provision found to be illegal shall be stricken, and the remaining provisions shall remain in full force and effect.

2. Full authority for the administration/application of all criteria, terms and conditions of this Section shall be with the Zoning Officer.

Table 2.22, WPO District Regulated Land Uses and Activities

Land Uses and Activities	WHPA Zone 1
1. Abandonment of Wells	a. Wells shall be sealed within 30 days of abandonment b. A zoning permit demonstrating planned compliance with DEP's water well abandonment guidelines shall be required prior to the sealing of a well. Certification by a licensed well driller or a Registered Design Professional of the sealing of the well consistent with DEP guidelines shall be required.
2. Above Underground Storage Tanks2	Not Permitted
3. Alteration of Natural Site Features Prior to Receiving All Required Permits & Approvals	Not Permitted
4. Cemeteries	Not Permitted
5. Collection and Transfer Facilities for Solid Waste or Hazardous Substances, Including Battery & Drum Recycling & Reprocessing	Not Permitted

Land Uses and Activities	WHPA Zone 1
6. Commercial or Municipal Solid Waste Recycling & Composting Facilities	Not Permitted
7. Commercial Slaughtering, Rendering, Tanneries	Not Permitted
8. Commercial Truck or Rail Tanker Cleaning Operations Where Hazardous Substances Are Involved	Not Permitted
9. Exempted Storage Tanks	Not permitted
10. Geothermal Exchange Systems (groundwater & ground loop)	Not Permitted
11. Golf Courses	Not Permitted
12. Industrial, Commercial or Institutional Facilities Which Use, Store, Transport, or Dispose of Hazardous Substances	Not Permitted
13. Junked Materials Whether on the Land Surface, in Sinkholes, Streams, Wetlands or Other Water Bodies	Not Permitted
14. Land Application of Manure, Fertilizer, and Pesticides	Not permitted
15. Land Application of Sewage Sludge	Not Permitted
16. Liquid Petroleum Product Transmission Lines	Not Permitted
17. Manufacture, Use or Storage of Hazardous Substances as a Principal Activity	Not Permitted
18. Manure Storage Facility	Not permitted
19. Nonbagged Bulk (1+ ton) Storage and Application of Road Salt & De-icing Chemicals	Not permitted
20. On-Lot Sewage Disposal Systems (OLDS)	Not permitted
21. Open Burning of Materials Containing Hazardous Substances	Not Permitted
22. Quarries & Mining Operations	Not Permitted
23. Residential Dwellings	Not Permitted
24. Sanitary Landfills & Junkyards	Not Permitted
25. Sewage Treatment Plants & Large-scale Community or Package Sewage Disposal Systems (not including municipally owned and operated pump stations or service lines)	Not Permitted
26. Small-scale Community or Package On Lot Disposal Systems (OLDS)	Not Permitted
27. The Withdrawal of 100,000 GPD or More of Water from Wells or Springs other than by the Middlesex Township Municipal Authority.	Not permitted
28. Underground Injection Wells	Not Permitted
29. Well Construction	Only municipal water supply wells may be constructed

ARTICLE 3 ZONING USES

Section 3.01 General Provisions

The following general provisions apply to the uses outlined in this Article.

(A) Except as permitted for Multi-family Dwelling Buildings and residential developments approved as part of a Planned Community, no residential Lot shall have erected upon it more than one (1) principal Building.

(B) Unless otherwise prohibited by this Ordinance, more than one (1) principal Mixed-Use or non-residential use may be erected on a single Lot provided that all Lot and Yard requirements, standards, and other requirements of this Ordinance shall be met for each Structure, as though it were on an individual Lot.

(C) No Building, Structure, or Land shall be used in any way other than the uses permitted in the zoning district in which the Building, Structure, or Land is located, with the exception of the Continuation of Existing Uses specified in Paragraph (D) below.

(D) *Continuation of Existing Uses*. The continuation of any Use existing and permitted at the time of adoption of these regulations is permitted, subject to the Nonconformities standards specified under Section 4.12, Nonconformities, of this Ordinance.

Section 3.02 Applicability

(A) Table 3.02.1, Permitted Uses, identifies the Principal, Accessory, and Temporary Uses allowed in each zoning district and are defined in this Ordinance.

(B) Principal, Accessory, and Temporary Uses are given one of the following designations specified in Table 3.02.1.

1. *Permitted by Right ("R")*. These Uses are permitted automatically by right in the zoning districts in which they are listed are subject to the general regulations under this Ordinance.

2. *Permitted by Special Exception ("SE")*. These Uses are not permitted by right but are subject to the Special Exception standards and criteria specified in Section 1.15 of this Ordinance.

3. *Permitted by Conditional Use ("C")*. These Uses are not permitted by right but subject to specific standards and more detailed and formal review procedures as specified under Section 1.16 of this Ordinance.

4. *Non-Permitted Uses*. Uses not permitted (whether expressly permitted or permitted upon interpretation and classification by the Zoning Officer) within a zoning district shall be deemed excluded. The Zoning Officer shall make a Determination of the classification of all land Uses within the context and intent of this Ordinance and may issue a Determination regarding whether a particular Use is permitted or excluded in a zoning district, all in accordance with this Ordinance.

(C) Permitted Uses are grouped into general categories, which are further broken into subcategories and specific Use types that are specifically defined in this Ordinance.

Section 3.03 Unlisted Uses

(A) If a Use is clearly not provided for in this Ordinance, whether as Permitted by Right, Permitted by Special Exception, or Permitted by Conditional Use, within any Zoning District within the Township, then the proposed Use shall be considered a Conditional Use and shall be approved pursuant to the requirements specified under Section 1.16 of this Ordinance. In addition to such requirements, the proposed Use shall also be approved based on the following Use character eligibility standards:

1. The proposed Use shall be consistent with and meet the stated purpose and intent of the zoning district within which the Use is being proposed.

2. The proposed Use shall be consistent with and uphold the general form, function, and design character of the neighborhood within which the Use is being proposed.

3. The Use shall be similar to and compatible with the permitted uses in the zone in which the subject property is located, is not permitted in any other zone under the terms of this Ordinance, and in no way is in conflict with the general purposes and intent of this Ordinance.

4. The Use shall consider the community development goals and objectives of the Middlesex Township Comprehensive Plan.

(B) The burden of proof shall be upon the Applicant to demonstrate that the proposed Use meets the foregoing criteria and would not be detrimental to the public health, safety, and welfare of the Township and its residents.

(C) For the purposes of this section, a specifically denied Use shall be considered a Use that is not a permitted Use in the zoning district in question but is a permitted Use in another zoning district.

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Table 3.02.1, Permitted Uses.

Table 3.02.1, Permitted Uses **MIDDLESEX TOWNSHIP ZONING ORDINANCE** **DISTRICT USE TABLE** Key: R = Permitted by Right SE = Permitted by Special Exception C = Permitted by Conditional Use Blank Cell = Non-Permitted Use	**MAPPED ZONING DISTRICTS**														
	North Mountain Conservation District (NMC)	**Appalachian Trail Conservation District (ATC)**	**Agriculture District (A)**	**Low Density Residential District (R-1)**	**Medium Density Residential District (R-2)**	**Medium-High Density Residential District (R-3)**	**High Density Residential District (R-4)**	**Mixed-Use Neighborhood District (MU-1)**	**Mixed-Use Village District (MU-2)**	**Institutional District (INS)**	**Commercial Highway District (C-1)**	**Light Industrial-Commercial District (C-2)**	**Industrial District (I)**	**Redevelopment Opportunity District (ROO)**	**Data Center Overlay District (DCO)**
PRINCIPAL USES (SECTION 3.04)															
RESIDENTIAL AND LODGING USES [SECTION 3.04 PARAGRAPH (A)]															
Bed and Breakfast	R		R	SE	SE	R			R						
Community Residence, Group Home	R		R	R	R	R	R	R	R	R					
Community Residence, Halfway House										SE	SE	SE			
Community Residence, Sober Living Facility/Recovery House										SE	SE	SE			
Dwelling, Multi-Family, Apartment									R						
Dwelling, Multi-Family Conversion						SE			R						
Dwelling, Single Family Detached	R		R	R	R	R		R	R						
Dwelling, Single Family Semi-Detached, Duplex						R		R	R						
Dwelling, Single Family Attached, Townhouse						R			R						
Dwelling, Tiny Home	R		R	R	R	R	R	R	R						
Hotel									R		R	R			
Live-Work Unit								R	R		R	R	R		
Manufactured Home							R								
Manufactured Home Community							R								
Mixed-Use Building								R	R						
Motel									R		R	R			
Rooming House / Boarding House						SE			SE	SE	R	SE			
Temporary Shelter Facility										SE	SE	SE			

Table 3.02.1, Permitted Uses MIDDLESEX TOWNSHIP ZONING ORDINANCE DISTRICT USE TABLE Key: R = Permitted by Right SE = Permitted by Special Exception C = Permitted by Conditional Use Blank Cell = Non-Permitted Use	MAPPED ZONING DISTRICTS														
	North Mountain Conservation District (NMC)	Appalachian Trail Conservation District (ATC)	Agriculture District (A)	Low Density Residential District (R-1)	Medium Density Residential District (R-2)	Medium-High Density Residential District (R-3)	High Density Residential District (R-4)	Mixed-Use Neighborhood District (MU-1)	Mixed-Use Village District (MU-2)	Institutional District (INS)	Commercial Highway District (C-1)	Light Industrial-Commercial District (C-2)	Industrial District (I)	Redevelopment Opportunity District (ROO)	Data Center Overlay District (DCO)
CIVIC AND INSTITUTIONAL USES [SECTION 3.04 PARAGRAPH (B)]															
Assembly, General									R	R	R	R			
Assembly, Neighborhood						R	R	R	R	R					
Cemetery	R		R	SE	SE	SE		R	R	R					
Government Facility	R	R	R	R	R	R	R	R	R	R	R	R	R	R	
Hospital									SE	R	R	R		R	
Library/Museum				SE	SE	SE			R	R	R	R		R	
Long-Term Care Facility									R	R	R	R		R	
Place of Worship	R		R	SE	SE	SE	R	R	R	R	R	R		R	
Police/Fire/EMS	R		R	R	R	R	R	R	R	R	R	R	R	R	
School, Pre-K, K-12, and Vocational Education				SE	SE	SE			R	R	R	R	R	R	
School, Post-Secondary Education				SE					R	R	SE				
Stadium/Arena										SE	SE	SE		SE	
AGRICULTURE, FORESTRY, AND OPEN SPACE USES [SECTION 3.04 PARAGRAPH (C)]															
Agricultural Operation	R	R	R	R	R	R		R	R	R	R	R	R	R	R
Commercial Stock Yard and/or Feedlot			R												
Community Garden	R		R	R	R	R	R	R	R	R					
Equine Activities	R		R	R				SE	R						
Forestry Operation	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Nature Preserve	R	R	R	R	R	R			R	R					R
Recreation Facility, Commercial or Private								SE	R	SE	R	R			R

Table 3.02.1, Permitted Uses MIDDLESEX TOWNSHIP ZONING ORDINANCE DISTRICT USE TABLE Key: R = Permitted by Right SE = Permitted by Special Exception C = Permitted by Conditional Use Blank Cell = Non-Permitted Use	MAPPED ZONING DISTRICTS														
	North Mountain Conservation District (NMC)	Appalachian Trail Conservation District (ATC)	Agriculture District (A)	Low Density Residential District (R-1)	Medium Density Residential District (R-2)	Medium-High Density Residential District (R-3)	High Density Residential District (R-4)	Mixed-Use Neighborhood District (MU-1)	Mixed-Use Village District (MU-2)	Institutional District (INS)	Commercial Highway District (C-1)	Light Industrial-Commercial District (C-2)	Industrial District (I)	Redevelopment Opportunity District (ROO)	Data Center Overlay District (DCO)
Recreation Facility, Public	R		R	R	R	R	R	R	R	R					R
Shooting Range, Indoor	SE		SE								SE	SE	SE	SE	
Shooting Range, Outdoor	SE		SE												
COMMERCIAL BUSINESS USES [SECTION 3.04 PARAGRAPH (D)]															
Commercial Equipment and Supply											R	R	R		
Construction Trade and Contractor			R									R	R		
Convenience Store								R	R		R	R	R	R	
Drive Through Only Facility											R	R			
General Retail								R	R		R	R			
Grocery Store								R	R		R	R			
Medical Marijuana Dispensary											R	R	R	R	
Neighborhood Retail								R	R		R				
Outdoor Retail Sales Lot									SE		R	R			
Planned Center, Commercial											R	C			
Public Market			R					R	R	SE	R	R			
SERVICE USES [SECTION 3.04 PARAGRAPH (E)]															
Adult Day Care Center								R	R	R		R			
Assisted Living Facility								R	R	R		R			
Automobile Car Wash								SE	SE		R	R	R	R	
Automobile Repair and/or Towing Service									R		R	R	R	R	
Automobile Sales and Rental Service									R		R	R	R	R	

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Brew Pub									R		R	R			
Childcare Center								R	R		C				
Community Service								R	R						
Drinking Place								R	R		R	R		R	
Eating Place								R	R		R	R		R	
Electronic Cigarette / Vaporizer Store								R	R			R		R	
Entertainment Assembly								SE	R		SE	R		R	
Family Childcare Home			R	R	R	R		R	R						
Family Entertainment Center									R		R				
Funeral Home / Mortuary									SE		R	R			
General Service									R	R	R	R		R	
Group Childcare Home				SE	SE	SE			SE	SE					
Kennel			SE									R			
Massage Establishment									R		SE				
Medical Clinic				SE				R	R	R	R	R		R	
Microbrewery, Microdistillery, Microwinery									R		R	R	R	R	
Methadone Treatment Facility										C	C				
Neighborhood Service								R	R						
Pawn Shop/Check Cashing Establishment											R	R		R	
Private Club	SE			SE	SE				R		R	R			

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Recreational Campground	SE		SE												
Self-Storage Facility									R		R	R	R	R	
Smoking Places								R	R		R	R	R		
Tattoo/Piercing Parlor								R	R		R	R			
Truck Repair and/or Towing Service													R		
Truck Sales and Rental Service													R		
Truck Stop													C		
Truck Wash													R		
ADULT USES [SECTION 3.04 PARAGRAPH (F)]															
Adult Establishments													R		
EMPLOYMENT USES [SECTION 3.04 PARAGRAPH (G)]															
Craftsman Industrial			R						R	R	R	R	R	R	
Data Center													R		R
Office Uses								R	R		SE	R		R	C
INFRASTRUCTURE USES [SECTION 3.04 PARAGRAPH (H)]															
Airport											SE	SE			
Heliport										R	R	R	R	R	
Helistop									SE	R	R	R	R	R	
Parking as a Principal Use									R		SE	SE	SE	SE	
Principal Solar Energy Systems (PSES)											C		C		
Principal Wind Energy Systems (PWES)	C														

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Transit Bus Stops							R	R	R	R	R	R	R	R	R
Transit Facility											R	R	R	R	
Transportation and Essential Services	R		R	R	R	R	R	R	R	R	R	R	R	R	R
Wireless Communications Facilities (Small Wireless Communications Inside the Public Rights-of-Way)	R		R	R	R	R	R	R	R	R	R	R	R	R	R
Wireless Communications Facilities (Small Wireless Communications Outside the Public Rights-of-Way)									R	R	R	R	R	R	R
Wireless Communications Facilities (Tower-Based)	SE		SE							SE	SE	SE	SE	SE	SE
INDUSTRIAL USES [SECTION 3.04 PARAGRAPH (I)]															
Automotive Dismantler and Recycler													SE		
Brewery, Distillery, Winery			R								R	R	R	R	
Junkyards													SE		
Meat Processing Establishment			R										R		
Medical Marijuana Grower / Processor Facility													R		
Mining and Mineral Extraction			C												
Outdoor Storage Yard													R		
Planned Center, Industrial												C	C		
Solid Waste Disposal Facility													C		
Truck Terminal													C		
Truck or Truck Trailer Parking													C		
Warehouse and Distribution													C		

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Yard Waste Composting Facility			SE							SE			R		
ACCESSORY USES (SECTION 3.05)															
Accessory Dwelling Unit	R		R	R	R	R		R	R						
Accessory Solar Energy Systems	R		R	R	R	R	R	R	R	R	R	R	R	R	R
Accessory Wind Energy Systems	R		R	R	R	R	R	R	R	R	R	R	R	R	R
Agricultural Commercial Enterprise			R	SE					R						
Agritourism Marketing Enterprise			R	SE					R						
Airstrip, Heliport/Helistop			SE	SE					SE	R	R	R		R	
Automobile Car Wash											R	R	R	R	
Carport, Portable or Temporary	R		R	R	R	R									
Community Garden	R		R	R	R	R	R	R	R	R	R				
Drive-Through Facility									R		R	R	R	R	
Electric Vehicle Charging Station, Levels 1 & 2	R		R	R	R	R	R	R	R	R	R	R	R	R	R
Electric Vehicle Charging Station, Level 3			R					R	R	R	R	R	R	R	R
Farm Occupation	R		R	R					R						
Keeping of Chickens (for non-commercial purposes)	R		R	R	R	R	R	R	R						
Keeping of Honeybees	R		R	R	R	R	R	R	R						
Keeping of Exotic Wildlife	SE		SE						R						
Keeping of Livestock			R	R											
Manure Storage Facility	R		R												

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Mineral and Resource Extraction Activities Associated with a Land Development Project	R		R	R	R	R	R	R	R	R	R	R	R	R	R
No-Impact Home-Based Business	R		R	R	R	R	R	R	R						
Outdoor Dining Area								R	R		R			R	
Outdoor Display and Sales			R	SE				R	R	R	R	R	R	R	
Outdoor Storage Yard											R	R	R		
Parking	R	R	R	R	R	R	R	R	R	R	R	R	R	R	
Short-Term Rental	SE		SE	SE	SE	R	R	R	R						
Signs	See Article 5, Signs														
Water Cooling and/or Storage Systems for Data Centers													R		R
TEMPORARY USES (SECTION 3.06)															
Farmers Market	R		R	R				R	R					R	
Model Home and/or Subdivision Sales Office				R	R	R	R	R	R					SE	
Open Air Market			R	R					R					R	
Temporary Construction Site Trailer	R		R	R	R	R	R	R	R	R	R	R	R	R	R
Temporary Outdoor Event	R	R	R	R	R	R	R	R	R	R	R	R	R	R	

Section 3.04 Principal Uses

(A) *Residential and Lodging Uses*.

A category of Uses for residential and overnight accommodations.

1. *Bed and Breakfast*.

A privately owned, Single-Family Detached Dwelling Unit having a maximum of eight (8) rooms, all without cooking facilities, rented to guests daily with the service of providing breakfast to the guests by the proprietor facility. The following supplemental use regulations shall apply:

a. Shall not alter the residential nature of the neighborhood and/or the character of the Dwelling as a residence.

b. Kitchen facilities shall comply with 7 PA Code Ordinance 46, Pennsylvania Food Code, as administered by the Pennsylvania Department of Agriculture.

c. Access to guestrooms shall be via a main entrance, lobby, or foyer within the Building. No guestroom shall have a separate exterior access, except as may be required by applicable fire or Building codes.

d. No employees who are not otherwise eligible to be a member of the same household with the Owner of the Bed and Breakfast may live on-site.

e. A Bed and Breakfast may have a Sign in accordance with Article 5 of this Ordinance.

2. *Community Residence, Group Home*.

A residential facility, also sometimes referred to as a "community living arrangement," licensed by the Commonwealth of Pennsylvania, that provides a home for not more than eight (8) handicapped, as defined by the Fair Housing Amendments Act, 42 U.S.C. §§ 3601 *et seq.*, or elderly individuals, excluding staff who do not reside on the property, who live and cook together as a single housekeeping unit. This definition shall not include a facility housing persons released from or under the jurisdiction of a government bureau of corrections or similar institution. This definition does not include persons occupying a hotel, dormitory, lodge, halfway house, sober living facility/community residence, boarding house or institution. A Group Home shall be a stable living environment which anticipates, contemplates, expects, and projects that occupants thereof shall reside in the group home for a term of not less than one (1) year in duration. The following supplemental use regulations shall apply:

a. In a narrative form, a statement of the proposed use, including its location, number of residents, name, telephone number, and contact person of the sponsoring agency.

b. A statement that all required approvals, permits, and licenses have been granted from the Federal, State, and County governments or other public agencies.

c. Accommodations in a Group Home shall be provided for no more than the maximum number of occupants or residents as permitted by the applicable Building code, fire code, and any other similar code that sets forth a maximum

occupancy limit for a dwelling or Building. Applications for a group home shall specify the maximum number of residents or occupants to be housed or cared for at the facility.

d. The Group Home shall comply with all zoning regulations in the district in which the Group Home is located.

e. All other information that is required by the Middlesex Township Building Code Official prior to issuing a Building permit shall also be provided to the Township.

f. The Group Home shall maintain a similar appearance, condition, and character to the existing dwellings in the immediate vicinity of the Group Home.

g. Occupants of the Group Home facilities shall live as a single housekeeping unit.

h. Under no circumstances shall any uses qualifying for or falling under the definition of halfway house or Sober Living Facility/Recovery House/recovery house be considered a Group Home.

3. *Community Residence, Halfway House*.

A dwelling occupied by not more than eight (8) transitionally institutionalized individuals that are inmates in prerelease status or inmates granted parole by the Pennsylvania Board of Probation and Parole who need specialized housing, treatment and/or counseling that provides supervised housing as an alternative to imprisonment, including but not limited to pre-release, work-release, probationary programs, or active criminal rehabilitation for the supervision of who have violated the law and who are sent to a halfway house upon release from, or in lieu of being sent to, a penal institution or juvenile detention center. The following supplemental use regulations shall apply.

a. A halfway house must be licensed where required by an appropriate government agency (agencies) and shall comply with all applicable rules and regulations of the licensing body (bodies). A copy of any required license must be delivered to the Township before beginning the use.

b. A halfway house shall be directly affiliated with a parent institution or organization that shall provide full-time supervision and administration to the residents of the house.

c. A common cooking and eating area must be provided; no cooking or dining facilities shall be provided in individual rooms or suites.

d. The residents of the halfway house shall reside on-premises to benefit from the services provided.

e. Property shall be served by public water and public sewer.

f. The halfway house shall not be located within 1,000 feet of any religious structure, public recreation facility, school facility, daycare center, or public library.

g. The halfway house shall not be located with 1,000 feet of another halfway house.

h. A minimum of four hundred (400) square feet of outdoor Open Space shall be provided per each resident.

i. In addition to the Special Exception review requirements specified under Section 1.15 of this Ordinance, each application shall be accompanied by a statement describing the following:

(1) The character of the halfway house;

(2) The policies and goals of the halfway house and the means proposed to accomplish those goals;

(3) The characteristics of the residents and the number of residents to be served;

(4) The operating methods and procedures to be used; and

(5) Any other facts relevant to the proposed operation of the halfway house.

j. Any Special Exception granted for the halfway house shall be bound to the type and number of offenders listed on the application. Any change in the type or number of offenders being housed shall require a new Special Exception.

4. *Community Residence, Sober Living Facility/Recovery House*.

A residential facility used by four (4) or more individuals residing together voluntarily or by court requirement to recover from drug, alcohol, and/or substance abuse and that does not include the current illegal use of or addition to a controlled substance as defined in 21 U.S. Code §802. Such facility must also serve as a transitional environment between rehabilitation facilities and reintegration into their future lives. This definition shall include sober houses, recovery houses, or sober living environments, but are not required to be licensed by Pennsylvania Department of Drug and Alcohol Programs. This term specifically excludes individuals and groups occupying: a boarding or rooming house, a lodging house; a club; a group home; a fraternity; a hotel; or a similar living environment. The following supplemental use regulations shall apply.

a. Registration with the Commonwealth and compliance with all regulations for licensure or certification as promulgated by the Department of Drug and Alcohol Programs in accordance with 71 P.S. § 613.13, as amended, or such other commonwealth agency or department as authorized by law. In the event that the Sober Living Facility/Recovery House is not registered and is not required to be licensed or certified by the Commonwealth, then the Sober Living Facility/Recovery House shall provide either:

(1) Documentation that it would comply if subject to licensure and certification; or

(2) Documentation that the Sober Living Facility/Recovery House is a member in good standing and in compliance with all rules and/or regulations of a recognized countywide, statewide, or nationwide Association of Recovery Homes or equivalent professional accrediting organization.

b. Prior to issuance of a Certificate of Occupancy by the Building Code Official, proof of licensure must be provided to the Zoning Officer. Additionally, and annually on January 31st of each year thereafter each operator must provide similar proof of Commonwealth registration and compliance or continued status as

a member in good standing and in compliance with all the rules and/or regulations of a recognized county, state, or national professional association.

c. Residents of a Sober Living Facility/Recovery House shall maintain a single housekeeping unit with shared use of living areas, eating areas, bathrooms, food preparation, and serving areas and shall share mealtimes and housekeeping responsibilities.

d. A Sober Living Facility/Recovery House shall be directly affiliated with a parent institution or organization who shall provide full-time supervision and administration to the residents of the house.

e. Property shall be served by public water and public sewer.

f. Accommodations in a Sober Living Facility/Recovery House shall be provided for no more than the maximum number of occupants or residents as permitted by the applicable Building code, fire code, and any other similar code that sets forth a maximum occupancy limit for a dwelling or Building. Applications for a Sober Living Facility/Recovery House shall specify the maximum number of residents or occupants to be housed or cared for at the facility.

g. Off-Street parking must be adequate to accommodate the needs of the residents and staff of the Sober Living Facility/Recovery House. Parking shall be provided in accordance with Section 4.15 of this Ordinance.

h. A Sober Living Facility/Recovery House shall not alter the essential character of the neighborhood or district in which it is located.

i. A minimum of four hundred (400) square feet of outdoor Open Space shall be provided per each resident.

j. In addition to the Special Exception review requirements specified under Section 1.15 of this Ordinance, each Special Exception application shall be accompanied with a statement describing the following:

(1) The nature and character of the Sober Living Facility/Recovery House;

(2) The policies and the goals of the Sober Living Facility/Recovery House;

(3) The management and administration structure;

(4) The history of the parent institution and the characteristics of the residents, along with the number of residents to be served; and

(5) All other facts relevant to the operation of the Sober Living Facility/Recovery House.

5. *Dwelling*.

Any Building or structure designed for living quarters for one (1) or more Families or housekeeping units, including manufactured homes that are supported by a permanent foundation. Dwelling units include permanent provisions for living, sleeping, eating, cooking and sanitation, thus providing a complete independent living arrangement.

a. *Multi-Family Dwelling, Apartment*.

A Building containing two (2) or more Dwelling Units (i.e., Apartments) and which can be occupied by two (2) or more families. The following supplemental use regulations shall apply:

(1) *Maximum Density*. The maximum dwelling units per acre shall be limited to the following:

(a) *MU-1 District*. Ten (10) units per acre.

(b) *MU-2 District*. Fifteen (15) units per acre, except a maximum of thirty-six (36) units per acre may be permitted when developed as part of a Neighborhood Design Development pursuant to Section 4.11 of this Ordinance.

(c) *ROO District*. Eighteen (18) units per acre.

(2) Property shall be served by public water and public sewer.

(3) A landscaping plan for the entire tract shall be required. A landscape architect licensed by the Commonwealth of Pennsylvania shall be retained to complete such a plan to ensure the proper species, use, and arrangement of plant materials. All areas of the development not covered by impervious surfaces shall be landscaped and maintained with suitable ground cover and plants. Existing vegetation is encouraged to be preserved for landscaping purposes.

(4) A minimum of fifty (50) percent of the gross area of the Multi-Family Dwelling development shall be set aside as common Open Space.

(5) The minimum separation between multi-family buildings shall be twenty (20) feet.

(6) All multifamily buildings shall be designed to provide complex massing configurations with a variety of different wall planes and roof planes. Plain, monolithic structures with long, monotonous, unbroken wall and roof surfaces of fifty (50) feet or more are prohibited. At least every fifty (50) linear feet, wall and roof planes shall contain offsets or setbacks with a differential in horizontal plane of at least four (4) feet.

(7) Indoor and outdoor areas of active or passive recreation shall be provided on the property and be maintained at all times. Playground equipment shall be inspected annually by a Certified Park Safety Inspector (CPSI) and a copy of the inspection report be provided to the Zoning Officer. All identified deficiencies shall be corrected within thirty (30) calendar days.

(8) *Multi-family Dwelling Accessory Buildings*.

(a) Detached garages, carports and other accessory structures, including, but not limited to, grouped mailboxes, storage and maintenance facilities, recreational facilities, picnic shelters, and

gazebos, shall incorporate compatible materials and scale as the primary multifamily buildings, except that flat and shed roofs are prohibited.

(b) Rear walls of detached garages and carports that back onto the Street shall be articulated through the use of windows, trellises, or a variety of roof planes.

(9) *Scale and Massing*. The following standards shall apply to buildings with a GFA greater than 40,000 square feet:

(a) Large Building masses shall be divided into heights and sizes that relate to human scale by incorporating changes in Building mass or direction, sheltering roofs, a distinct pattern of divisions on surfaces, windows, trees, or small-scale lighting.

(b) *Vertical Definition*. The maximum length of any Building wall that is parallel with, and oriented toward, the public Street is one hundred (100) feet without vertical definition. Vertical definition may be in the form of changes in color and materials, modulations of sufficient width and depth to define the vertical element or some combination of these techniques.

(c) Horizontal Definition. All buildings shall include design techniques that clearly define the Building's top, middle, and bottom, as follows:

i. *Top*. Shall include sloped roofs, strong eave lines, cornice treatments, horizontal trellises, sunshades, or other similar architectural features.

ii. *Middle*. Shall include windows, balconies, material changes, railings, or similar architectural treatments.

iii. *Bottom*. Shall include pedestrian-oriented storefronts, pedestrian-scale Building tails, awnings, arcades, "earth" materials including concrete, stone, stucco, or other similar architectural treatments.

b. *Multi-Family Conversion*.

An existing Single-Family Detached Dwelling that has been converted or shall be converted to individual dwellings for more than one (1) family, without substantially altering the exterior of the Building. The following supplemental use regulations shall apply:

(1) Minimum apartment size shall conform to the following scale:

Number of Bedrooms	Usable Living Area
1	500 Square Feet
2	650 Square Feet
3	850 Square Feet

(2) Only existing, single-family detached dwellings may be converted for conversion apartment Use.

(3) A maximum of four (4) units may be created by the conversion of a single-family detached Structure.

c. *Single-Family Detached Dwelling*.

A Building used by one (1) Family, having only (1) Dwelling Unit and surrounded by Open Space or yards and which is not attached to any other Building by any means. Only one (1) Single-Family Detached Dwelling shall be permitted for each legally subdivided Building Lot.

d. *Single-Family Semi-Detached, Duplex*.

One of two (2) Buildings arranged or designed as a Dwelling, located on abutting Lots and separated from each other by a solid partition—without openings—extending from the Basement floor to the highest point of the Roof along the dividing Lot line and separated from any other Building or Structures by space on all sides.

e. *Single-Family Attached, Townhouse*.

A Single-Family Attached Dwelling unit in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each is separated from any other unit by one (1) or more vertical common fire-resistant walls. Notwithstanding anything in this Ordinance to the contrary, in addition to an individual Townhouse unit on an individual lot, more than one (1) Townhouse unit and principal building with multiple Townhouse units are permitted to be located on one or more lots as part of a planned community.

f. *Tiny Home*.

A single-family detached dwelling not exceeding six hundred (600) square feet of heated floor area, meets applicable requirements of Township Building Code, and is placed on a permanent foundation. A tiny home that is located on the same lot as a principal dwelling unit is an Accessory Dwelling Unit. The following supplemental use regulations shall apply:

(1) Tiny houses shall conform to the requirements of the International Residential Code as adopted and amended by the Township.

(a) Tiny houses include all residential structures, designed to be used as permanent or primary residences that meet the definitions in Appendix AQ of the International Residential Code as adopted and amended by the Township.

(b) The Township's adoption of the International Residential Code shall include the provisions contained in the International Residential Code Appendix AQ entitled 'Tiny Houses.'

6. *Hotel*.

A lodging establishment offering temporary lodging to the public consisting of eight (8) or more sleeping rooms with a bathroom for each room and providing daily room cleaning services and other guest services. In-room kitchen facilities may or may not be provided. Includes apartment or residential hotels. Secondary service uses may also be provided, such as restaurants and meeting rooms. The following supplemental use regulations shall apply:

a. A private lobby shall be included.

b. Rooms shall be accessed from the interior of the Building, including from interior courtyards, lobbies, or halls.

c. Shall have direct access to and/or frontage on an Arterial or Collector Street.

7. *Live-Work Unit*.

A Building or portion of a Building:

a. That combines a commercial or manufacturing activity allowed in the zone with a residential living space for the owner of the commercial or manufacturing business, or the owner's employee, and that person's household;

b Where the resident owner or employee of the business is responsible for the commercial or manufacturing activity performed; and

c. Where the commercial or manufacturing activity conducted takes place subject to a valid business license associated with the premises.

d. The following supplemental use regulations shall apply:

(1) *Space Limitations*. The residential portion shall remain accessory to the primary commercial use portion of the Building. Within each Live-Work Unit, the living area shall not exceed one third (1/3) of the total floor area of the Building.

(2) *Direct Access*. There shall be at least one (1) direct access between the working and living spaces within the Live-Work Unit.

(3) *Residency*. At least one (1) full-time employee who shall also be a resident of the property shall work in the work portion of the Live-Work Unit.

(4) *Multiple Live-Work Units*. Where there are multiple Live-Work Units within a single Building, each unit shall be physically separated from other units and uses within the Building, and access to individual units shall be from a common Open Space, corridor, hallway, or other common access areas.

8. *Manufactured Home*.

Any structure intended for or capable of permanent human habitation, with or without wheels, and capable of being transported or towed from one place to the next, in one or more pieces, by whatsoever name or title it is colloquially or commercially known but excluding transport trucks or vans equipped with sleeping space for a driver or drivers,

and travel trailers. Manufactured homes placed on fee-simple Lots shall be considered Single Family Detached Dwellings and be bound by the requirements there-imposed.

9. *Manufactured Home Community*.

A parcel or contiguous parcels of land that has been so designed and improved that it contains three (3) or more manufactured home spaces for the placement thereon of manufactured homes. A Manufactured Home Community shall be developed pursuant to standards specified by the Middlesex Township Subdivision and Land Development Ordinance.

10. *Mixed-Use Building*.

A Mixed-Use Building integrates residential and non-residential uses within the same Building where non-residential Uses are permitted on the first floor of the Building and Multi-family Dwelling Unit(s) are permitted on the upper floor(s). These Buildings shall comply with all standards for non-residential Buildings plus the following supplemental use regulations:

a. Uses permitted within a Mixed-Use Building include:

(1) Civic and Institutional Uses.

(2) Retail Uses.

(3) Services Uses.

(4) Multi-Family Dwelling

11. *Motel*.

A Building or group of Buildings, whether detached or in connected units, used as individual sleeping or dwelling units, designed with separate entrances, and designed for year-round occupancy, primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" includes Buildings designated as tourist courts, tourist cabins, motor lodges and similar terms.

12. *Rooming House / Boarding House*.

A Dwelling arranged or used to provide overnight accommodations, with or without meals, for compensation by either transient or permanent occupants, of between three (3) and six (6) roomers, wherein no dining facilities are maintained for the roomer and in which bathrooms may or may not be shared. The following supplemental use regulations shall apply.

a. Rooming House and Boarding House are distinguished from Hotels, Motels, and Bed and Breakfast facilities by the following characteristics:

(1) The length of stay is typically longer – typically a minimum of two (2) weeks – for Rooming House and Boarding House;

(2) Roomers and boarders often have personal household appliances (such as toaster ovens and mini refrigerators);

(3) There is no daily room cleaning or other guest services provided for rooming or Boarding House; and

(4) The architectural character of a Rooming House or Boarding House Structure is primarily residential in nature.

b. The following supplemental use regulations shall apply to Rooming Houses and Boarding Houses:

(1) A common cooking and eating area must be provided; no cooking or dining facilities shall be provided in individual rooms or suites.

(2) Minimum period of residency for all boarders/roomers shall be one (1) week.

(3) The Lot on which such Building is located must have a Lot Area, in addition to other area requirements of this Ordinance, of not less than 1,500 square feet for each person for whom accommodation is provided therein.

(4) Necessary permits for water supply and sanitary waste disposal must be obtained.

(5) The house must retain the character of a Single-Family Dwelling Unit.

(6) Off-Street parking shall be provided in accordance with the provisions specified under Section 4.15 of this Ordinance.

13. *Temporary Shelter Facility*.

A facility providing temporary, emergency housing, and social, health, and related services for families and/or individuals eighteen (18) years of age or older, who are without resources and access to shelter. The following regulations apply:

a. The maximum number of residents of the lodging shall be based upon a ratio of one (1) Person for every fifty (50) square feet of interior space devoted to sleeping area, not to exceed one hundred (100) residents total.

b. The facility shall have staffing on-site during all hours of operation.

c. At least one (1) toilet and shower shall be provided for every fifteen (15) shelter beds.

d. The Temporary Shelter facility shall be open to the individuals it serves for twenty-four (24) hours per day, including the provision of an indoor waiting area for Use by individuals when a portion of the facility is not open for operation. Lodging shall be provided on a reservation or referral basis so that clients shall not be required or allowed to queue for services outdoors.

e. All functions associated with the Temporary Shelter facility, except for children's play areas, outdoor recreation areas, and parking shall take place within the Building housing the shelter.

(B) *Civic and Institutional Uses*.

A category of Uses related to fulfilling the needs of day-to-day community life including assembly, public services, educational facilities, and Hospitals.

1. *Assembly*.

A facility that has organized meetings, or programs to benefit, educate, entertain, or promote discourse amongst the residents of the community in a public or private setting. Includes such uses as community centers, auditoriums, civic centers, convention centers, performing arts facilities, private functional gatherings, and recreation centers.

a. *Assembly, General*. An assembly Use that occupies a Building with ten thousand (10,000) square feet or more GFA.

b. *Assembly, Neighborhood*. An assembly Use that occupies a Building with less than ten thousand (10,000) square feet of GFA.

2. *Cemetery*.

Land used or intended to be used for the burial or resting place of the deceased. The following supplemental use regulations shall apply:

a. All burial plots or structures shall be located at least twenty (20) feet from any property line or Street line.

b. Documentation shall be provided that water supplies of surrounding properties shall not be contaminated by burial activity within the proposed cemetery.

c. No burial plots or facilities are permitted in the 100-year flood zone.

3. *Government Facility*.

A publicly owned and operated facility used for government services including administration, operations, maintenance, recreation, and public works. Outdoor storage of equipment and materials associated with the government facility use is permitted.

4. *Hospital*.

A Pennsylvania Department of Health-licensed institution providing medical care and health services to the community, primarily ill or injured patients. These services may be located in one Building or clustered in several Buildings, one of which shall provide emergency services, and may include additional hospital-affiliated Accessory Uses such as laboratories, in- and out-patient facilities, training facilities, medical offices, staff sleeping quarters (but not full-time residences), food service, heliports, pharmacies, laundry facilities, florists, vendors of medical equipment, opticians, and gift shops. The following performance standards shall apply:

a. Minimum Lot Area shall be five (5) acres.

b. The property shall front on an Arterial Street or Collector Street.

c. The property shall be serviced by public water and public sewer utilities.

d. Where more than one Building occupies a Lot, the interior Yard requirements specified under Section 4.04 of this Ordinance shall apply.

e. A traffic impact study shall be prepared by a Registered Design Professional, in accordance with the traffic impact study requirements specified in the Middlesex Township Subdivision and Land Development Ordinance.

f. Emergency entrances shall be located on a Building wall which faces away from adjoining residences or residential zones or is set back a minimum of five hundred (500) feet from the residences or residential zones.

g. The institution shall submit a copy of its emergency operations plan (EOP) to the Township Emergency Management Agency or Coordinator. The EOP shall include detailed information regarding solid, medical and hazardous materials and waste handling including a listing of all medical and hazardous materials and wastes used and generated on site and evidence indicating the disposal of all materials and wastes shall be accomplished in a manner that compiles with State and Federal regulations.

h. Screening shall be provided in accordance with the standards specified in Section 4.03 of this Ordinance.

5. *Library/Museum*.

A use open to the general public that houses educational, cultural, artistic, or Historic information, resources, and exhibits. Includes such uses as libraries, museums, aquariums, planetariums, and exhibitions. May also include such accessory uses including, but not limited to, theater space, food service, gift shop, and meeting rooms.

6. *Long-Term Care Facility*.

A use that provides rehabilitative, restorative, and/or ongoing skilled nursing care to patients and residents in need of assistance with activities of daily living. Long-term care facilities include nursing homes, rehabilitation facilities, in-patient behavioral health facilities, and long-term chronic care hospitals.

7. *Place of Worship*.

Any Building used for the purposes by an established religious organization where such Building is primarily intended to be used as a place of worship. The term includes, but is not necessarily limited to church, temple, synagogue, and mosque. The following supplemental use regulations shall apply:

a. Notwithstanding the bulk and area requirements specified under the zoning district where Place of Worship are permitted, the following shall apply to Place of Worship:

(1) *Minimum Lot Area*. One (1) acre.

(2) *Minimum Lot Width*. Two hundred (200) feet.

(3) *Side Yard Setback*. Fifty (50) feet on each side.

b. All Place of Worship shall have vehicular access to an Arterial or Collector Street.

c. All off-street parking areas shall be set back at least ten (10) feet from the closest property line and screened from adjoining properties.

d. *Place of Worship-Related Residences (Rectories and Convents)*.

(1) All residential uses shall be accessory and located upon the same Lot or directly adjacent to a Lot containing a Place of Worship.

(2) All residential uses shall be governed by the location, Height and bulk standards imposed upon other residences within the (R-1) Zone, except that any number of persons of a convent and/or seminary may share group quarters.

e. *Place of Worship-Related Cemeteries*.

(1) All burial plots or structures shall be located at least twenty (20) feet from any property line or Street line.

(2) No burial plots or facilities are permitted in the 100-year flood zone.

8. *Police/Fire/EMS*.

A use from which public safety, and emergency operations and training services are delivered and may include storage space for emergency service vehicles. Training rooms, locker rooms, kitchens, and limited overnight accommodations may also be included within the facility.

9. *School, Pre-K, K-12, and Vocational Education*.

Public or private educational facilities for pre-school, kindergarten-12th grade education, including vocational educational training. Facilities may be on a larger-scale campus and include significant traffic and parking. May include gymnasium, theater, cafeteria, offices, classrooms, athletic facilities, and athletic fields. Use does not include Stadium/Arena but may include a Stadium/Arena as an Accessory Use. The following supplemental use regulations shall apply:

a. The Applicant shall meet all requirements of the Commonwealth of Pennsylvania Code, Title 25, Ordinance 171, Schools and State and Federal requirements for the construction, remodeling or alteration, or conversion of an existing property to an educational facility.

b. Notwithstanding the bulk and area requirements specified under the zoning district where Post-Secondary Education uses are permitted, the following shall apply:

(1) *Minimum Lot Area*. Five (5) acres.

(2) *Minimum Lot Width*. Two hundred (200) feet.

(3) *Side Yard Setback*. Fifty (50) feet on each side.

c. All Post-Secondary Education uses shall have vehicular access to an Arterial or Collector Street.

d. All off-street parking areas shall be set back at least ten (10) feet from the closest property line and screened from adjoining properties.

10. *School, Post-Secondary Education*.

Public or private educational facilities providing for post-secondary education that grants associates, bachelors, masters, and/or doctoral degrees. Facilities may be on a larger-scale campus and include significant traffic and parking. May include gymnasium, theater, cafeteria, offices, classrooms, athletic facilities, and athletic fields. Does not include Stadium/Arena but may include a Stadium/Arena as an Accessory Use. The following supplemental use regulations shall apply:

a. Notwithstanding the bulk and area requirements specified under the zoning district where Post-Secondary Education uses are permitted, the following shall apply:

(1) *Minimum Lot Area*. Five (5) acres.

(2) *Minimum Lot Width*. Two hundred (200) feet.

(3) *Side Yard Setback*. Fifty (50) feet on each side.

b. All Post-Secondary Education uses shall have vehicular access to an Arterial or Collector Street.

c. All off-street parking areas shall be set back at least ten (10) feet from the closest property line and screened from adjoining properties.

11. *Stadium/Arena*.

A Building or Structure seating more than one thousand (1,000) spectators in tiered seating at sporting events, concerts, meetings, and gatherings of large groups. A stadium/arena may be open air or covered by either a fixed or retractable Roof. The following supplemental use regulations shall apply:

a. *Major Entrances*. A stadium/arena shall have multiple public entrances, including one major entrance on the Facade designated by the property Owner as the front setback. Such entrances shall be well-marked to cue access and Use through means of enhancement that may include but are not limited to architectural, landscape, or graphic treatments. Where possible, major entrances shall take advantage of prominent intersection locations.

b. *School Stadium.* A Stadium/Arena is a permitted Accessory Use to a School.

(C) *Agriculture, Forestry, and Open Space Uses*.

A category of Uses generally applicable to the use of the land and may not require Buildings or other facilities uses for agriculture, active or passive, public, or private, outdoor recreation, education, or entertainment.

1. *Agricultural Operation*.

Any use of land or structures for an enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock, and livestock products and in the production, harvesting, and preparation for market or use of agricultural, agronomic,

horticultural, silvicultural, and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products, or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry. The term includes: (1) any farmstead land on the tract; (2) a woodlot; and (3) any land which is rented to another Person and used for the purpose of producing an Agricultural Commodity. Agricultural Commodity includes any of the following transported or intended to be transported in commerce: (1) Agricultural, aquacultural, horticultural, floricultural, viticultural or dairy products. (2) Livestock and the products of livestock. (3) Ranch-raised fur-bearing animals and the products of ranch-raised fur- bearing animals. (4) The products of poultry or bee raising. (5) Forestry and forestry products. (6) Any products raised or produced on farms intended for human consumption and the processed or manufactured products of such products intended for human consumption.

2. *Commercial Stockyard and/or Feedlot*.

An Agricultural Operation that collects and temporarily stores livestock. The following supplemental use regulations shall apply:

a. All live animals held outside shall be within secure holding pens or runways.

b. No exterior animal holding pens and/or areas devoted to loading/unloading of animals shall be located within two hundred (200) feet of any property line nor five hundred (500) feet of any land within residential zone.

c. All animal holding pens and/or areas used for the loading/unloading of animals shall be screened from all adjoining properties and shall include a minimum fifty (50) foot wide landscape strip.

d. All access drives onto the site shall be provided in a dust and mud-fee manner for a distance of at least two hundred (200) feet from the Street Right-of-Way line. The first fifty (50) of the access drive beginning with its connection with the Street Right-of-Way line shall be paved.

e. The Owner and/or operator shall be responsible for removing any mud from public roads caused by persons traveling to and from the site.

f. Adequate off-street parking and loading areas shall be provided. No parking or loading/unloading shall be permitted on or along any public road.

g. The Applicant shall furnish evidence of any needed Nutrient Management Plan approved by the appropriate agency.

h. All facilities shall be designed and operated in strict compliance with all applicable State and Federal laws and regulations.

3. *Community Garden*.

A space used to grow plants for personal Use, education, recreation, community distribution, or beautification by members of the neighborhood community. Community Gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas

maintained or used by community group members. The following supplemental use regulations shall apply:

a. *Requirements for Food Production*.

(1) The Site shall have reliable and legal access to an onsite source of water. use of water storage systems for non-potable uses are permitted.

(2) The Site shall be operated in a manner that prevents the drainage of water or chemicals onto any neighboring property.

(3) Site operators shall ensure that soils are suitable for food production and shall obtain any permits for operation required by law.

(4) Tools, supplies, and machinery shall be stored in an enclosed Structure or removed from the property daily. All chemicals and fuels shall be stored off the ground in an enclosed, locked Structure when the Site is unattended.

(5) The Site shall be maintained using organic agricultural practices, including the use of organic chemicals, when applicable. Use of pesticides shall be in accordance with Pennsylvania's Pesticide Control Act of 1973 (Act of Mar. 1, 1974, P.L. 90, No. 24).

(6) At the end of the growing season (and no later than December 15 of each year), all plant material shall be cut to no more than six (6) inches in height, unless there is an agricultural reason for keeping the plant materials uncut.

b. *Operating Rules*. Applicants shall establish operating rules addressing the governance structure of the Community Garden, hours of operation, maintenance, assignment of garden plots when applicable, and security requirements.

c. *Garden Coordinator*. Applicants shall identify a garden coordinator to manage the garden and act as the point of contact with the Township. The coordinator shall be an employee or volunteer of a public entity, non-profit organization, or other community-based organization. Applicants shall file the name and telephone number of the garden coordinator and a copy of the operating rules with the Zoning Officer. One identification Sign containing the name and phone number of the Garden Coordinator for the site is required to be posted at the community garden site. The Sign shall be visible from the most active adjacent Street.

4. *Equine Activities*.

Includes the following activities as prescribed by Pennsylvania's Equine Activity Immunity Act, Act of Dec. 22, 2005, P.L. 472, No. 93:

a. Equine training, teaching, riding instruction, shows, fairs, parades, competitions or performances which involve breeds of equine participating in an activity. This includes, but not be limited to, dressage, hunter and jumper shows, Grand Prix jumping, three-day eventing, combined training, rodeos, reining, cutting, team penning and sorting, driving, pulling, barrel racing, steeple chasing, English and Western performance riding and endurance and nonendurance trail riding. This paragraph shall also include Western games, gymkhana, hunting, packing, therapeutic riding and driving and recreational riding.

b. Equine or rider and driver training, teaching, instruction, or evaluation. This paragraph includes clinics, seminars and demonstrations.

c. Boarding equines, including normal daily care.

d. Recreational rides or drives which involve riding or other activity involving the use of an equine.

e. Placing, removing, or replacing of horseshoes or the trimming of an equine's hooves.

f. The following performance standards apply to all Equine Activities:

(1) *Minimum Lot Size*. One (1) acre.

(2) *Number of Horses Permitted*. Maximum one (1) per acre.

(3) *Events*. Special events, including training, where horse trailers or similar vehicles shall be parked in the Right-of-Way shall be regulated by Temporary Use Zoning Permit issued by the Zoning Officer, and shall be subject to an approved parking and staging plan.

(4) *Fences*. All turnouts shall be enclosed by a fence that is a minimum of fifty-four (54) inches high and is compliant with the provisions of this Ordinance.

5. *Forestry Operation*.

The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting, and selling trees for commercial purposes, which does not involve any land development. The following supplemental use regulations shall apply:

a. To encourage maintenance and management of forested or wooded Open Space and promote the conduct of forestry as a sound and economically viable use of forested land and forestry activities, including, but not limited to timber harvesting, and to be in compliance with the MPC, as amended, forestry shall be a permitted Use by right in all zoning districts. The following standards apply to all timber harvesting within the Township. These provisions do not apply to the cutting of trees for the personal use of the landowner or for pre-commercial timber stand improvement.

b. *Policy and Purpose*. To conserve forested Open Space and the environmental and economic benefits they provide, it is the policy of Middlesex Township to encourage the owners of forestland to continue to use their land for forestry purposes, including the long-term production of timber, recreation, wildlife, and amenity values. The timber harvesting regulations are intended to further this policy by promoting good forest stewardship, protecting the rights of adjoining Property Owners, minimizing the potential for adverse environmental impacts, and avoiding unreasonable and unnecessary restrictions on the right to practice forestry.

c. *Permit Required, Notification, Insurance and Surety*.

(1) When a property Owner wishes to conduct or permit to be conducted a logging or timber harvesting operation on his property, such Owner shall obtain a zoning permit from the Township. The fee schedule for logging and timber harvesting zoning permit shall be as indicated in the current Township Fee Schedule resolution.

(2) This section shall not apply to:

(a) Work performed on clearing subdivision roads and Rights-of-Way approved by the Board of Supervisors of the Township.

(b) Individual Lots affected by the logging operation of less than one (1) acre in size, provided that the entire logging or timber-harvesting operation does not exceed a total of one (1) acre.

(3) The Township shall be notified in writing before any logging or timber harvesting operation begins so that the Township may determine if other Township permits or approvals are required for the particular operation. Should a logging and timber harvesting permit be required for the particular operation, the Township shall be notified at the following times:

(a) Seven (7) business days prior to starting the operation.

(b) Five (5) business days prior to terminating the operation.

d. *Submission Requirements for Zoning Permit Application*. The logging and timber harvesting application shall be filed with the Township and shall contain the following:

(1) A project narrative/description containing the following information:

(a) Purpose of the proposed operation including range and species of trees selected for harvesting.

(b) Total land area involved in the proposed logging operation shall be shown on a survey plan prepared by a Professional Land Surveyor.

(c) An Erosion and Sedimentation Control Plan prepared in accordance with 25 Pennsylvania Code, PA Ordinance 102 regulations.

(d) Written description outlining the revegetation of the landing area, skid trails, harvest area and any other disturbance locations.

(e) Stormwater control measures to be utilized.

(f) Stream crossings and wetland protection measures to be utilized.

(g) Provide proof of written notification to each adjacent property Owner of the proposed logging or timber-harvesting operation with statement that the application is available to be viewed in the Township offices. A copy of such notification letter shall be included with the Applicant's submission.

(h) A narrative indicating that the logging operator shall address and comply with the requirements of all applicable commonwealth laws and regulations, including, but not limited to the Erosion and Sedimentation Control Plan as required under subparagraph (c) above.

e. *Logging Operation Practices and Regulations*.

(1) No logging operation or removal of products shall take place between the hours of 7:00 PM and 8:00 AM prevailing time or any time on Sundays or legal holidays.

(2) Any logging operation in existence at the time of the enactment of this article may continue without interruption, provided that application is made within thirty (30) days of said enactment for a zoning permit under the provisions of this article and that such permit is granted.

(3) The maximum term of any permit issued pursuant to this article shall be for six (6) months. However, since the logging operation may be adversely affected or delayed by unusual circumstances of weather or other occurrences, one additional six (6) month extension, after payment of a renewal fee equal to the initial permit fee, may be granted by the Township.

(4) Trees falling on adjacent properties as a result of a logging or timber harvesting operation shall immediately be returned to the landowner's property, who shall be responsible for any damage, cost, or restoration to the affected adjacent property.

(5) Timbering or logging activity shall not be performed within ten (10) feet of any unmarked property line which has not been surveyed to accurately demonstrate location of trees in relationship to the property boundaries.

(6) The Township shall have authority to order the suspension of any logging or timber harvesting operation if activities are not in compliance with any federal, state, or local municipal ordinance or regulation, or in violation of the permit requirements and conditions.

(7) Felling or skidding on or across any public road or Right-of-Way is prohibited without the express written consent of the Township or the Pennsylvania Department of Transportation, whichever is responsible for maintenance of such public road or Right-of-Way.

(8) No tops or slash shall be left on any public or private roadway or pedestrian trail providing access to adjoining residential property.

(9) No tops or slash shall be left on or across the boundary of any property adjoining the logging or timber harvesting operation without the written consent of the Owner thereof.

(10) All litter resulting from a logging or timber-harvesting operation shall be removed from the site before the operator vacates it.

(11) Upon completion of the logging or timber harvesting operation, all disturbed areas, including, but not limited to, the landing area(s), skid trails and any disturbed areas shall be revegetated pursuant to the Erosion and Sedimentation Control Plans, the Stormwater Management Plans and the permit requirements.

f. *Road Maintenance, Protection and Bonding*.

(1) The Township shall have the authority to suspend any logging or timber harvesting operation should the Township determine that conditions of the logging or timber harvesting operation shall cause or likely make damage to a Township-maintained roadway.

(2) The repair of roads, bridges and culverts damaged as a result of a logging or timber harvesting operation shall be repaired to the satisfaction of the Township.

(3) The permittee, logging operator, or a designated representative shall not create a new or utilize an existing access onto a state-maintained roadway without first showing proof that the access is permitted by the Pennsylvania Department of Transportation.

(4) The permittee, logging operator, or a designated representative shall not create a new or utilize an existing access onto a Township-maintained roadway without first obtaining permission from the Township for utilizing said access.

(5) Any disturbance along a Township-maintained roadway to create a new or improve upon an existing access shall be reconstructed back into its original condition as it was prior to the commencement of the logging or timber harvesting operation.

g. *Waivers and Enforcement*.

(1) The Township's Zoning Officer (or equivalent otherwise titled Township Official), or his/her designee, shall be the enforcement officer for this article.

(2) The Township's Zoning Officer (or equivalent otherwise titled Township Official), or his/her designee, may enter the site of any logging or timber harvesting operation before, during, or after active logging to:

(a) Review the logging plan or any other required documents for compliance with this article; and

(b) Inspect the operation for compliance with the logging plan and other on-site requirements of these regulations.

h. *Violations, Penalties and Remedies*.

(1) *Enforcement Remedies*.

(a) Upon finding that a timber harvesting operation is in violation of any provision of the article, the Township shall issue the logging

operator and the landowner a written Notice of Violation, in accordance with the provisions of this Ordinance regarding enforcement notices, describing each violation and specifying a date by which corrective action must be taken.

(b) The Township may order the immediate suspension of any logging or timber-harvesting operation and may institute any appropriate action to prevent, restrain, correct, or abate the violation of this article (as permitted by 53 P.S. § 10617) upon finding that (1) corrective action has not been taken by the date specified in a notice of violation; (2) the operation is proceeding without a logging plan; or (3) the operation is causing an immediate environmental risk, hazard or pollution concern.

(c) Suspension orders shall be in writing, shall be issued to the logging operator and the landowner, and shall remain in effect until the logging operation is brought into compliance with this article or other applicable statutes or regulations.

(2) *Penalties*. See Section 1.12 Violations and Penalties of this Ordinance.

6. *Nature Preserve*.

Areas in which human activities are very limited and where the natural environment is protected from man-made changes by a conservancy or conservation easement. The nature preserve includes woodland preservation, game preserves, and wildlife sanctuaries.

7. *Recreation Facility, Commercial or Private*.

A privately-owned and operated indoor and/or outdoor facility used for arcade games, swimming, bowling, tennis club, rink, track, Alley, cage, course, field throwing, or other similar types of uses in which the patrons pay a fee and/or are members to participate in or view a recreational or entertainment physical activity, including activities which include motorized vehicles and the like. The following supplemental use regulations shall apply:

a. Notwithstanding the bulk and area requirements specified under the zoning district where Commercial or Private Recreation Facility uses are permitted, the following shall apply:

(1) *Minimum Lot Area*. Five (5) acres.

(2) *Minimum Lot Width*. Two hundred (200) feet.

(3) *Side Yard Setback*. Fifty (50) feet on each side.

b. All Commercial or Private Recreation Facility uses shall have vehicular access to an Arterial or Collector Street.

c. All off-street parking areas shall be set back at least ten (10) feet from the closest property line and screened from adjoining properties.

8. *Recreation Facility, Public*.

A facility owned by the Township or a public or quasi-public body designed for the preservation of historic or scenic property or recreational use by the general public. Public recreation facilities include Open Space and parks for public access, public parks, public gathering spaces, and Township-owned recreation areas and playgrounds free of charge.

9. *Shooting Range, Indoor*.

A commercial business where for a fee firearms and other projectile-type weapons (e.g., guns, rifles, shotguns, pistols, air guns, archery crossbows, etc.) can be shot indoors for recreation, competition, skill development, training, or any combination thereof. May include Retail Sales. The following supplemental use regulations shall apply:

a. The facility shall not be located within one hundred (100) feet of any residentially zoned property.

b. The facility shall have frontage and access to an Arterial or Collector Street.

c. The facility shall be designed according to the indoor range design criteria specified in the U.S. Department of Energy Office of Health, Safety and Security's "Range Design Criteria" publication dated 6/4/2012. These design criteria shall be the minimum criteria used to design a commercially owned and operated indoor shooting range.

10. *Shooting Range, Outdoor*.

A commercial business where for a fee firearms and other projectile-type weapons (e.g., guns, rifles, shotguns, pistols, air guns, archery cross-bows, etc.) can be shot outdoors for recreation, competition, skill development, training, or any combination thereof. The following supplemental use regulations shall apply:

a. *Lot Area*. Minimum Lot Area shall be ten (10) acres.

b. *Location*.

(1) No part of a shooting range, to include the safety fan, shall be located within one-quarter (1/4) mile of any residential Structure.

(2) Adjacent areas shall be predominantly undeveloped, and the range area shall be at least two hundred (200) feet from any property or Street Right-of-Way line. The Use shall also be located at least five hundred (500) feet from any existing residential Dwelling.

(3) The facility shall have frontage and access to an Arterial or Collector Street.

c. *Lot Width*. Minimum Lot width shall be three hundred (300) feet.

d. *Design*.

(1) The facility shall be designed according to the Outdoor Range Design criteria specified in the U.S. Department of Energy Office of Health, Safety and Security's "Range Design Criteria" publication dated 6/4/2012.

These design criteria shall be the minimum criteria used to design a commercially owned and operated outdoor shooting range.

(2) A Safety Fan shall be provided for each firing range. The Safety Fan shall include the area necessary to contain all projectiles, including direct fire and ricochet. The Safety Fan configuration shall be based upon the trajectory of the bullet and the design effectiveness of berms, overhead baffles, or other safety barriers to contain projectiles to the Safety Fan.

(3) The entire firing range area, including the entire Safety Fan, shall be enclosed with a six foot (6') high non-climbable fence to prevent unauthorized entry into the area. Range caution Signs with eight (8) inch tall, red letters on a white background shall be posted at a maximum of one hundred (100) foot intervals around the range perimeter. Signs shall read "SHOOTING RANGE AREA. KEEP OUT!"

(4) Range flags shall be displayed during all shooting activities. Range flags shall be located in a manner visible from entrance drives, target areas, range floor, and the perimeter of the Safety Fan.

(5) All surfaces located within the Safety Fan, including the backstop, overhead baffles, berms, and range floor, shall be free of hardened surfaces, such as rocks or other ricochet-producing materials.

(6) All shooting range facilities, including Buildings, parking, firing range, and Safety Fan shall be set back a minimum of one hundred (100) feet from the property line and Street Right-of-Way.

(7) The firing range shall be free of gravel and other hard surface materials and be adequately drained according to the stormwater management standards specified in the Middlesex Township Subdivision and Land Development Ordinance.

(8) Adult supervision shall be provided for children under sixteen (16) years of age.

e. *Shooting Range Operations*.

(1) Shall not damage the health, safety or welfare of the Township or its residents and property owners.

(2) Shall comply with all applicable State and local laws, rules, and regulations regarding the discharge of a firearm.

(3) Shall limit the storage of ammunition to only that utilized for each day's activity, and in no event shall ammunition remain on the property for greater than twenty-four (24) hours. The storage of live ammunition may only occur indoors in an area secured from general access.

(4) Shall limit the number of active shooters to the number of firing points or stations identified on the development plan.

(5) Shall limit firing to the hours between two (2) hours after dawn and one (1) hour preceding dusk.

(6) Alcoholic beverages are prohibited.

(7) Only targets mounted on target posts shall be permitted. No targets of any kind shall be set directly on the ground.

(D) *Commercial Business Uses*.

A category of Uses involving the sale of goods and provision of services to the public for personal or household consumption. Visibility and accessibility are important to these uses, as most businesses typically rely heavily on walk-in customers or clients and rarely utilize scheduled appointments.

1. *Commercial Equipment and Supply*.

A Use involving the large-scale sale of goods to residents or businesses within the region. The goods or merchandise sold may be of the same type or a variety of types and typically occupy a space greater than 20,000 square feet. This Use may include bulk sales and typically involves frequent commercial vehicle and consumer traffic. This Use is primarily located indoors but may also include accessory outdoor storage of goods. This includes such uses as those listed in Table 3.04.1, Typical Commercial Equipment and Supply Uses.

Table 3.04.1, Typical Commercial Equipment and Supply Uses.

Bottled Gas (such as propane) Sales and Supply
Heating & Air Conditioning Supply, Sales and Service
Building Materials, Hardware, and Lumber Supply Machine Sales and Rental
Cabinet Supply (display only)
Electrical Supply
Plumbing Sales and Service
Farm Equipment and Supply Wholesale Trade

2. *Construction Trade and Contractor*.

A commercial enterprise trade or occupation involving construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property. The use includes the term construction contractor, which is a person, business entity, corporation, limited liability company, partnership or other legal entity that is licensed to perform construction services. The following supplemental use regulations shall apply:

a. Shall have frontage onto or access to an Arterial or Collector Street.

b. Shall have an impervious coverage area equal to or less than the maximum impervious coverage permitted by the zoning district within which the use is located.

c. Shall be setback a minimum of fifty (50) feet from all property lines within which it is located.

d. Shall have screen buffers according to the requirements specified under the Middlesex Township Subdivision and Land Development Ordinance.

3. *Convenience Store*.

Any retail store with a wide mix of goods typically used daily, including household goods, prepared and made-to-order foods, personal health items, cosmetics, motor vehicle products, candy, and tobacco products. Automobile fuel sales are typically associated with the use. Truck Stops and truck fuel sales are not permitted. The following supplement use regulation shall apply:

a. Shall only be located where the use has frontage on an Arterial or Collector Street.

4. *Drive Through Only Facility*.

A facility or structure designed to allow drivers to remain in their vehicles during an activity on the site. Drive-through only facilities serve as the principal use of the site. The following supplemental use regulations shall apply:

a. No indoor or outdoor seating is permitted.

b. No electric vehicle charging stations are permitted.

c. All dimensions of the parking spaces on the Lot shall meet the minimum requirements of the Township Code.

d. No more than one drive through only facility may be permitted per Lot.

e. No more than one drive-through lane may be permitted per serving window or counter.

f. *Site Access*.

(1) Access driveways to drive through only facilities shall be located as far away as possible from Street intersections and corners and designed in accordance with the applicable Street design standards specified under the Middlesex Township Subdivision and Land Development Ordinance.

(2) The number of access driveways into a site shall be minimized to reduce conflicts between turning vehicles and other users of the Street, reduce curb cuts and interruptions to the sidewalk.

(3) Vehicle queuing lanes shall be separated from all aisles, shall not result in additional curb cuts along the same Street frontage and shall not have direct ingress and egress from any Street.

(4) Vehicle queuing lanes shall not be directly accessible from a Street and cannot interfere with the traffic flow on the public Street(s) from which the use is accessed.

(5) Vehicle queuing lanes shall not obstruct or interfere with parking spaces, pedestrian aisles or walkways and loading or service areas.

g. *Parking*.

(1) No more than one (1) parking space per employee per shift may be permitted.

(2) Parking areas where possible shall avoid having pedestrians cross driveways or vehicle queuing lanes to enter the Building.

(3) The parking areas shall not conflict with the ingress and egress of the vehicle queuing lanes. This can be achieved by locating the parking areas away from the vehicle queuing lanes or clearly delineating the parking areas with appropriate barriers and signage.

(4) Larger parking areas shall be separated into smaller well-defined sections, using a combination of hard and soft landscaping to avoid large, paved surfaces in parking areas.

(5) The use of Impervious Surfaces for paved areas in the parking Lot shall be minimized. The use of Pervious Surfaces in combination with soft landscaped areas to contribute to the appearance and environmental sustainability of the site is encouraged.

5. *General Retail*.

A retail Use with a GFA of 3,000 square feet or greater and outdoor sales limited to no more than twenty (25) percent of the indoor GFA of the retail Use. General retail includes such Uses as those listed in Table 3.04.2, Typical Retail Uses.

Table 3.04.2, Typical Retail Uses.

Typical Neighborhood Retail Uses	Typical General Retail Use
Antique Shop Apparel, Shoes, and/or Accessory Store Small Appliance Store Art Gallery and Sales Art and/or Education Supplies Bakery with no distribution Beer/Wine/Liquor Sales Bicycle and Accessory Sales Book &/or Video Store Camera and Photo Supply Store China and/or Glassware Cigar, Cigarettes, Tobacco Shop Coin and/or Philatelic Store Craft Store Discount Variety Store (e.g., dollar stores or five and dime stores) Drug and/or Cosmetics Store, except Medical Marijuana Dispensary Electronics Sales Fabric and Sewing Supply Store Florist Framing Shop Furrier Shop, no storage	All "Typical Neighborhood Retail Uses" 3,000 sf and over Appliance Sales Automotive Supply (no service) Computer Software Sales and Leasing Department Store Firearms Sales and Service Medical Supply Store Motorcycle and Motor Scooter Sales, limited outdoor display Nursery Outdoor Recreation Equipment

Garden Supply and/or Nursery Gift, Novelty and Souvenir Shop Hardware Store Home Furnishings and Accessories Jewelry and/or Gem Store Luggage and/or Leather Goods Magazine and/or Newspaper Store Music and/or Musical Instruments Office Machines and Supply Optical Goods Paint and Wallpaper Store Pet and/or Pet Supplies Shop Secondhand sales of any item permitted for sale new Specialty Food (Candy, Fish, Produce, Prepared Foods, etc.) Sporting Goods Stationery and Paper Store Toy and/or Baby Supplies	

6. *Grocery Store*.

Any store commonly known as a supermarket, food store, or grocery store, with at least sixty (60) percent of gross square footage dedicated to the retail sale of fresh and/or frozen meat, seafood, poultry, fruits, and vegetables; and dairy and bakery products.

7. *Medical Marijuana Dispensary*.

A Person, including a natural Person, corporation, partnership, association, trustor other entity, or any combination thereof, which holds a permit issued by the Pennsylvania Department of Health to dispense medical marijuana pursuant to Pennsylvania's Medical Marijuana Act, Act of April 17, 2016, P.L. 84, No. 16.

8. *Neighborhood Retail*.

A retail Use with a GFA of less than 3,000 square feet and outdoor sales limited to no more than ten (10) percent of the indoor GFA of the retail Use. Neighborhood retail includes such uses as those listed in Table 3.04.2, Typical Retail Uses. In the event a specific Neighborhood Retail Use is not identified in Table 3.04.2, the Zoning Officer shall have the authority to review the proposed Use and the Applicant shall submit to the Zoning Officer such additional information as the Zoning Officer deems necessary to render an official Determination under this Ordinance.

9. *Outdoor Retail Sales Lot*.

A Use involving the sale of goods or merchandise to businesses and/or the general public, where the majority of the goods are stored or displayed outdoors. Outdoor Retail Sales Lot include such uses as: the sale and rental of automobiles, trucks, trailers, boats, and recreational vehicles; and the outdoor sale of Building materials, landscape materials, and garden supplies. The following supplemental use regulations shall apply:

a. Outdoor Retail Sales Lots are not permitted on a Corner Lot, except in the C-1and C-2 zoning districts.

b. Any site used for the sale, parking and/or storage of more than one hundred fifty (150) vehicles shall front solely upon Collector or Arterial roads.

c. Driveways shall be located in safe relationship to sight distance and barriers to vision in accordance with the Middlesex Township Subdivision and Land Development Ordinance.

d. Driveways shall be constructed in accordance with the design and improvement standards of the Middlesex Township Subdivision and Land Development Ordinance.

e. Vehicles shall be parked and/or stored in a horizontally stacked configuration.

f. All lighting shall be designed and constructed so as not to cast glare on adjoining road and/or properties.

g. The sales area shall be considered to be that of the smallest rectangle, or other regular geometric shape which encompasses all display areas, stands, booths, tables, or stalls, plus any adjoining aisles and/or walkways from which consumers can inspect items for sale.

h. The retail sales area shall be set back at least fifty (50) feet from all residential zoning district or residential use.

i. Any exterior lighting and amplified public address system shall be arranged and designed to prevent impacts on adjoining properties. The exterior lighting standards specified under Section 4.10 and the noise standards specified under Section 4.19, Performance Standards, of this Ordinance shall apply.

j. Exterior trash receptacles shall be provided amid any outdoor sales area. Such trash receptacles shall be routinely emptied to prevent the scattering of litter and debris. All applications shall include a description of a working plan for the cleanup of litter.

k. The servicing, reconditioning, demolition, or junking of vehicles is prohibited.

l. The Applicant shall furnish evidence that the disposal of all materials shall be accomplished in a manner that complies with all applicable State and Federal regulations.

m. No part of the use shall be located within six hundred (600) feet of any land within residential or Mixed-Use zoning districts specified in Table 2.01 of this Ordinance.

n. All Outdoor Retail Sales Lots shall comply with applicable state laws including 49 Pa. Code § 19.19. Standards of Licensure for Retail or Public Auction.

10. *Planned Center, Commercial*.

A commercial development on a tract of land, normally over two (2) acres, that is designed, planned, constructed, and managed/operated on an integrated and coordinated basis. They would typically include Office Parks, Shopping Centers, and Shopping Malls that include provisions for on-site parking for employees and/or customers, traffic planning, Open Space, landscaping, signage and other aesthetic considerations. The following supplemental use regulations shall apply:

a. The site shall have frontage on and direct vehicular access to an Arterial Street.

b. *Access*. Vehicle access shall be provided pursuant to the requirements specified in the Middlesex Township Subdivision and Land Development Ordinance. The subject site shall have access to a Collector or Arterial Street.

c. Site illumination shall be provided in accordance with the lighting standards specified under Section 4.10 of this Ordinance.

d. *Traffic Impact Study*. A traffic impact study prepared by a Registered Design Professional pursuant to the requirements specified under the Middlesex Township Subdivision and Land Development Ordinance shall be reviewed and approved by the Township Engineer.

11. Public Market.

An indoor or covered, open-air permanent Building dedicated to the sale of local and regional food, flowers, baked goods, and small crafts, excluding secondhand goods.

(E) *Service Uses*.

A category of Uses that provide patrons services and limited retail products related to those services.

1. Adult Day Care Center.

Any Premises operated for profit in which Adult Day Care is simultaneously provided for four (4) or more adults who are not relatives of the owner/operator of the center. Adult Day Care is care given for part of the twenty-four (24) hour day to adults requiring assistance to meet personal needs and who, because of physical or mental infirmity, cannot themselves meet these needs, but who do not require nursing care.

2. Assisted Living Facility.

Any Premises in which food, shelter, assisted living services, assistance or supervision and supplemental health care services are provided for a period exceeding twenty-four (24) hours for four (4) or more adults who are not relatives of the operator, who require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation from the facility in the event of an emergency or medication prescribed for self-administration.

3. Automobile Car Wash.

A Building or Structure with accompanying open-air stations designed and used primarily for the automatic, semiautomatic, or hand washing, drying, polishing, and vacuuming of automobiles. This use does not include Truck Wash. The following supplemental use regulations shall apply:

a. Car washes shall include a water reclamation system for the purpose of recycling water.

b. Centralized sewage disposal facilities and centralized water supply facilities shall be provided. Filtration of wastewater shall be conducted before discharge to a sanitary sewer system.

c. A National Pollutant Discharge Elimination System (NPDES) permit from the Pennsylvania Department of Environmental Protection is required to discharge wastewater directly into a surface water body or to a storm sewer that discharges to a surface water body.

d. Residual sludge shall be disposed of in accordance with the Pennsylvania Department of Environmental Protection requirements and standards.

e. On-Lot traffic circulation channels and parking areas shall be clearly marked.

f. Adequate provision shall be made for the proper and convenient disposal of refuse.

g. Water from the car wash operation shall not flow onto sidewalks or Streets, to prevent hazards from ice.

4. *Automobile Repair and/or Towing Service*.

A business involving the sale and distribution of fuel and providing repair and/or towing service for Automobile vehicles only. Automobile car wash operations may also be included. The following supplemental use regulations shall apply:

a. *Permitted Types of Repair Service*. Repairs include minor and heavy repair services including engine rebuilding, bodywork, repair and replacement of cooling, electrical, fuel and exhaust systems, brake adjustments, relining and repairs, wheel alignment and balancing, suspension systems, and other mechanical and non-mechanical elements of Vehicles.

b. *Outdoor Storage*. Disabled or inoperable Vehicles and those awaiting pick-up may be stored outdoors if all the following occur:

(1) No more than ten (10) Vehicles are stored.

(2) The storage area is located in the Rear Yard and screened from view of the front Lot line. The screening shall be a minimum of eight (8) feet high and shall be a galvanized chain link fence with privacy slats.

(3) The storage area shall also be screened from adjacent uses pursuant to the Screening requirements specified under Section 4.03 of this Ordinance.

(4) The Vehicles shall be stored in the designated storage area and not in the public right of way or in a part of the Lot not specifically designated as an off-street parking space.

(5) All ventilation associated with fuel storage tanks shall be setback one hundred (100) feet from any adjoining residential use or property within a residential or Mixed-Use zoning districts and oriented away from such property.

(6) The Applicant shall furnish evidence that the storage and disposal of materials shall be accomplished in a manner that complies with all applicable state and federal regulations.

c. *Outdoor Activities*.

(1) All repairs or washing activities shall occur inside a Building.

(2) Temporary outdoor display of seasonal items, such as windshield wiper fluid or salt, is permitted during business hours adjacent to the principal Building.

d. *Environmental Controls*.

(1) Car washes shall include a water reclamation system for the purpose of recycling water.

(2) Centralized sewage disposal facilities and centralized water supply facilities shall be provided. Filtration of wastewater shall be conducted before discharge to a sanitary sewer system.

(3) A National Pollutant Discharge Elimination System (NPDES) permit from the Pennsylvania Department of Environmental Protection is required to discharge wastewater directly into a surface water body or to a storm sewer that discharges to a surface water body.

(4) Residual sludge shall be disposed of in accordance with the Pennsylvania Department of Environmental Protection requirements and standards.

5. *Automobile Sales and Rental Service*.

A commercial facility that offers automobiles, trucks, and/or limousines for sale, rent or lease for specific periods of time, including a stand-alone facility for automobile sales, rental or leasing services associated with an off-site automobile dealership.

6. *Brew Pub*.

An Eating Place, as defined herein, that includes as an accessory use the on - premises production of alcoholic beverages—including beer, wine, cider and distilled liquors—which produces less than 100,000 gallons of such beverages per year, and primarily sells its beverages on- site, either for on- or off -premises consumption. The area used for brewing, distilling, bottling, and kegging shall not exceed thirty (30) percent of the total gross leasable GFA. The Brew Pub shall be licensed by the Pennsylvania Liquor Control Board and any successor agency of the Commonwealth.

7. *Childcare Center*.

A facility that provides services for which the Pennsylvania Department of Human Services (DHS) has promulgated licensure or approval regulations. A Childcare Center is a facility in which seven (7) or more children unrelated to the operator receive Childcare services. In addition to the requirements specified in DHS licensure or approval regulations, the following supplemental use regulations shall apply:

a. Outdoor play areas shall not be located in the Front Yard.

b. Outdoor play areas shall be screened from adjoining residentially zoned properties pursuant to the screening requirements specified in Section 4.03.

c. Any vegetative materials located within the outdoor play areas shall be of a non-poisonous and non-invasive type.

d. All outdoor play areas shall provide a means of shade, such as shade trees or pavilions.

8. *Community Service*.

A public or not-for-profit service or activity undertaken to advance the welfare of citizens in need that provides food and goods distribution to private citizens.

9. *Drinking Place*.

Any established licensed and permitted location under the Pennsylvania Liquor Control Board to brew and sell alcoholic beverages, including beer, wine, and liquor for on-site consumption.

10. *Eating Place*.

An establishment selling prepared foods for on-premises consumption and carry-out. Includes such uses as restaurants, cafes, coffee shops, diners, delis, fast-food establishments, lunch counters, and cafeterias. Eating Places, which do not include Brew Pubs, may sell alcoholic beverages, including beer, wine, and liquor for on-site consumption as permitted through the Pennsylvania Liquor Control Board.

11. *Electronic Cigarette / Vaporizer Store*.

A business establishment for which more than fifty (50) percent of the GFA is dedicated to the storage, mixing, display, on-site consumption, and/or retail sale of electronic cigarette devices, nicotine-enriched solutions, and/or liquid products that are manufactured for Use with electronic cigarettes.

12. *Entertainment Assembly*.

A facility, other than a Stadium/Arena or Adult Establishment, for holding events, indoors or outdoors, to which members of the public are invited with or without charge. Events may include weddings, theatrical performances; live music performances; dances, balls; shows or exhibitions; or live or broadcasted wrestling, boxing/sparring matches, or other sporting events. The following supplemental use regulations shall apply:

a. *Sewage Disposal*. The premises upon which Entertainment Assembly uses are conducted shall have an on-Lot disposal system, holding tank, or be serviced by public sewer system. No portable toilets are permitted.

b. Buildings and Structures within which Entertainment Assembly uses are conducted shall be in compliance with the PA Uniform Construction Code.

c. *Noise*. Noise performance shall be in accordance with the performance standards specified under Section 4.19 of this Ordinance.

13. *Family Childcare Home*.

A facility that provides services for which the Pennsylvania Department of Human Services (DHS) has promulgated licensure or approval regulations. A Family Childcare Home is a facility in which four (4), five (5) or six (6) children unrelated to the operator receive childcare services. A family care home shall be located in a habitable residential Building that meets Township Building and fire code regulations. In addition to the requirements specified in DHS licensure or approval regulations, The following supplemental use regulations shall apply:

a. Outdoor play areas shall not be located in the Front Yard.

b. Outdoor play areas shall be screened from adjoining residentially zoned properties pursuant to the screening requirements specified in Section 4.03 of this Ordinance.

c. Any vegetative materials located within the outdoor play areas shall be of a non-poisonous and non-invasive type.

d. All outdoor play areas shall provide a means of shade, such as shade trees or pavilions.

e. Refuse shall be collected on a regular basis by a commercial waste contractor.

14. *Family Entertainment Center*.

A Business occupying a Premises, Structure and Use owned, operated, or leased as small indoor and/or outdoor amusement parks that offer a wide variety of entertainment for all ages, which may include food and beverage service, music, event space, meeting rooms, and a variety of amusements. The following supplemental use regulations shall apply:

a. The Premises shall contain a minimum of ten (10) acres.

b. The Premises shall have access and frontage along a public street.

c. Notwithstanding anything in this Ordinance to the contrary, the maximum Impervious area coverage for a Family Entertainment Center shall be seventy (70) percent.

d. *Parking Demand Analysis*. Notwithstanding anything in this Ordinance to the contrary and to ensure that a Family Entertainment Center provides adequate, but not excessive, vehicle parking, the Township requires applicants thereof to submit a written computation of their required off-street parking spaces based on the estimated parking demand of the proposed Use(s).

(1) The estimated demand for a Family Entertainment Center shall be calculated using the parking demand analysis specified under Section 4.15(D) of this Ordinance. In preparing the Parking Analysis Report specified under Section 4.15(D), the Professional Engineer may also consider the need for overflow parking or additional parking in case of future expansion.

(2) *Township Approval*.

(a) As part of any required subdivision or land development plan application approval process, or independently if there is no new plan proposed, the Township Board of Supervisors, upon recommendation of the Township Planning Commission and in consultation with the Township Zoning Officer and Township Engineer, shall consider the final parking requirements determination made in the Applicant's Parking Analysis Report. Based on the Applicant's materials and other data the Township Zoning Officer and Township Engineer deem relevant, the Board of Supervisors shall set the requirements for minimum parking allowed. Conditions of approval may be placed on the Decision to ensure compliance with the parking determination.

(b) The Applicant may appeal the Township's Decision to the Zoning Hearing Board pursuant to Section 1.14 of this Ordinance.

15. *Funeral Home / Mortuary*.

A place or premise devoted to or used in the care and preparation for burial, disposition, or transportation of dead human bodies, or any specifically designated location or address where any person or persons shall hold forth that he, she, or they are engaged in the practice of mortuary science, embalming, cremation services, or funeral directing, and shall mean and include any premises of any kind whatsoever in which mortuary science in any of its branches is practiced or in which more than five funerals may be conducted in any calendar year, except publicly owned buildings, Place of Worship and meeting places of fraternal organizations. Funeral homes/mortuaries may include crematoriums, visitation rooms, and administrative offices. The following supplemental use regulations shall apply:

a. *Lot Size*. The minimum Lot area shall be 40,000 square feet.

b. Traffic circulation on the Lot shall be designed to provide for the queuing of vehicles on the property without obstructing the free flow of traffic on adjoining Streets.

16. *General Service*.

A Service Use with a GFA of 3,000 square feet or greater as well as larger scale indoor and outdoor entertainment Uses. General Service includes Uses such as those listed in Table 3.04.3 Typical Service Uses.

Table 3.04.3, Typical Service Uses.

Typical Neighborhood Service Uses	Typical General Service Uses
Arcades and Billiards Barber Shop, Beauty Salon, and Spas Coffee Shop Dry Cleaning (pick-up/outlet only) Financial Depository Institutions/Banks, chartered and excluding Check Cashing Establishments Fitness Club, Athletic Club, Dance Studio, Yoga Studio and Gym Home Furniture and Equipment Repair Laundromat Locksmith Mailing and Delivery Services Medical Clinic Pet Grooming Phone Sales and Service Photocopying and Printing Photography Studio with Supplies Post Office, limited distribution Rental of any good permitted to be sold in the district Repair and/or servicing of any good permitted to be sold in the district Tailor or Seamstress Tanning Salon Travel Agency, Ticketing, and Tour Operator Veterinary Services/Animal Hospital (no outdoor Kennels)	All Neighborhood Services over 3,000 square feet Animal Boarding, Daycare, & Training (interior only) Aquatic Facilities Archery Ranges (indoor only) Batting Cages Bowling Alleys Miniature Golf Courses Motion Picture Theaters Recreation, Commercial Indoor Rental of any good permitted to be sold in the district Repair of any good permitted to be sold in the district Skating Rink

17. *Group Childcare Home*.

A facility that provides services for which the Pennsylvania Department of Human Services (DHS) has promulgated licensure or approval regulations. A facility in which seven (7) to twelve (12) children unrelated to the operator receive Childcare services. In addition to the requirements specified in DHS licensure or approval regulations, the following performance standards apply:

a. Outdoor play areas shall not be located in the Front Yard.

b. Play areas shall be located and designed so as not to disrupt normal activities of adjoining uses permitted within the zoning district(s) identified in Table 2.01.

c. Outdoor play areas shall be screened from adjoining residentially zoned properties pursuant to the screening requirements specified in Section 4.03.

d. Any vegetative materials located within the outdoor play areas shall be of a non-poisonous and non-invasive type.

e. All outdoor play areas shall provide a means of shade, such as shade trees or pavilions.

18. *Kennel*.

Any establishment available to the general public where a dog or dogs are housed or trained for compensation by the day, week, or a specified or unspecified time. The term shall not include a kennel where the practice of veterinary medicine is performed if the kennel is covered by the provisions of the act of December 27, 1974 (P.L.995, No.326), known as the "Veterinary Medicine Practice Act." The term kennel shall include any establishment available to the general public that, for consideration, takes control of a dog from the owner for a portion of a day for the purposes of exercise, day care or entertainment of the dog. For the purpose of this term, each time a dog enters the kennel it shall be counted as one dog. This term does not include an establishment engaged only in dog grooming or dog training. The term shall also include any kennel operated for the purpose of breeding, buying and selling or in any way transferring dogs for non-research purposes. The following Use regulations shall apply:

a. All Kennels shall be licensed by the Pennsylvania Department of Agriculture and shall be constructed and maintained in accordance with Pennsylvania's Dog Law, 3 P.S. § 459-101, *et seq*. The Applicant shall demonstrate compliance with all State requirements.

b. *Minimum Lot Area*. Each site shall contain at least five (5) acres.

c. All animal boarding Buildings that are not completely enclosed, and any outdoor animal Pens, stalls or runways shall be located within the rear yard and screened from adjoining properties and shall be setback a minimum of two hundred (200) feet from all property lines.

d. All outdoor recreation areas shall be enclosed to prevent the escape of animals. All such enclosures shall be set back a minimum of two hundred (200) feet from all property lines.

e. Sanitary disposal facilities shall be available to eliminate animal and food waste, used bedding, dead animals and debris, and to minimize vermin infestation, odors, and disease hazards.

f. The subject property shall be located no closer than five hundred (500) feet from the Residential zoning districts listed in Table 2.01 and/or property containing a residence.

g. Yard areas or Pens shall be fenced with wire mesh fencing and setback a minimum of two hundred (200) feet from all property lines.

19. *Massage Establishment*.

Any establishment having a fixed place of business where any person, partnership, corporation or association, engages in, carries on, or permits to be engaged in or carried on, the practice of massage as is defined above, but shall exclude licensedhospitals, licensed nursing homes, medical clinics and the offices and quarters of licensed health profession practitioners. The following supplemental use regulations shall apply:

a. A Massage establishment shall not be permitted within five hundred (500) feet of any property line of a parcel or parcel containing a structure or Building used for residential purposes.

b. A Massage Establishment shall not be permitted within 1,000 feet of any property line of a parcel or parcel of land on which a school (whether public, private, vocational, trade or commercial), dormitory, place of worship, adult bookstore, adult theater or another Massage Establishment is located.

c. A Massage Establishment shall be conducted within the principal Building as the main or principal use.

d. A Massage Establishment and all massage technicians shall meet all requirements and be bound by the provisions of Middlesex Township Ordinance No. 13-87 and any subsequent amendments thereto and/or successor ordinances.

e. Massage technicians shall meet all educational, training, or other requirement established from time to time by the Commonwealth of Pennsylvania and any other governmental authority having jurisdiction thereof.

f. The Massage Establishment shall not be operated between the hours of 12:00 AM Midnight and 7:00 AM prevailing time.

20. *Medical Clinic*.

A licensed institution providing same-day, walk-in, or urgent medical care and health services to the community, primarily ill or injured out-patients, which is not a hospital, and which is not a medical office, and which shall not include methadone or drug rehabilitation clinics. Provision of an indoor waiting area for use by individuals when a portion of the facility is not opened for operation is required, so that clients shall not be required or allowed to queue for services outdoors.

21. *Microbrewery, Microdistillery, Microwinery*.

A facility for the production, packaging and sampling of alcoholic beverages—including beer, wine, cider, mead, and distilled liquors—for retail or wholesale distribution, for sale or consumption on- or off -premises, and which produces less than 100,000 gallons of such beverages per year. It may include a restaurant (i.e., Eating Place), tasting room and retail space to sell the product on site. “Nanobreweries" shall be included under this definition. The Microbrewery / Microdistillery / Microwinery shall be licensed by the Pennsylvania Liquor Control Board and any successor agency of the Commonwealth.

22. *Methadone Treatment Facility*.

A facility licensed by the Department of Health to use the drug methadone in the treatment, maintenance, or detoxification of persons. The following supplemental use regulations shall apply:

a. A methadone treatment facility shall have frontage on and direct access to a Principal Arterial or Collector Street.

b. For any Building (or portion thereof) which is proposed to contain a methadone treatment facility, the Lot upon which such Building (or portion thereof) sits shall not be located closer than five hundred (500) feet (or the then current Pennsylvania statutory- provided distance, whichever is greater) to a Lot utilized for an existing school, public playground, public park, residential housing area, residential Lot, single- family dwelling, Childcare facility, church, meeting house or other actual place of regularly scheduled religious worship established prior to the proposed methadone treatment.

c. Notwithstanding Subsection b. above, a methadone treatment facility may be established and operated closer than five hundred (500) feet (or the then current Pennsylvania statutory-provided distance, whichever is greater) to a Lot utilized for an existing school, public playground, public park, residential housing area, residential Lot, single-family dwelling, Childcare facility, church, meeting house or other actual place of regularly scheduled religious worship established prior to the proposed methadone treatment, if, by majority vote, the governing body approves a use for said facility at such location. At least fourteen (14) days prior to any such vote by the governing body, one or more public hearings regarding the proposed methadone treatment facility location shall be held within the municipality pursuant to public notice. All owners of real property located within five hundred (500) feet of the proposed location shall be provided written notice of said public hearing(s) at least thirty (30) days prior to said public hearing(s) occurring.

d. All Buildings proposed to contain a methadone treatment facility shall fully comply with the requirements of the PA Uniform Construction Code.

e. In addition to the otherwise required number of parking spaces specified by Section 4.15 of this Ordinance, additional parking shall be required specifically for the methadone treatment facility at a rate of one additional parking space for each two hundred (200) feet of area devoted to the methadone treatment facility.

f. Each Building or portion thereof proposed for use as a methadone treatment facility shall have a separate and distinct entrance utilized solely for direct entrance into the methadone treatment facility. Access to the methadone treatment facility shall not be permitted via a shared Building entrance or from a shared interior corridor within the Building in which it is located.

23. *Neighborhood Service*.

A service Use with a GFA of less than 3,000 square feet. Neighborhood Service includes such uses as those listed in Table 3.04.3, Typical Service Uses.

24. *Pawn Shop/Check Cashing Establishment*.

An establishment primarily engaged in the businesses of lending money on the security of pledged goods left in pawn; purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller; or providing cash to patrons for, payroll, personal, and bank checks.

25. *Private Club*.

An establishment that operates for the good of the club's membership for legitimate purposes of mutual benefit, entertainment, fellowship, or lawful convenience. A Private Club shall reserve its facilities for members and shall have genuinely exclusive membership criteria. A Private Club shall adhere to its constitution and bylaws, hold regular meetings open to its members, conduct its business through officers who are regularly elected, admit members by written application, investigation and ballot, charge and collect dues from elected members, and maintain records as required by law. The sale of alcohol shall be secondary to the actual reason for the club's existence and be licensed by the Pennsylvania Liquor Control Board. The Township may conduct routine inspections of the Premises to ensure the absence of illegal activity on the Premises, adequate maintenance of the interior and exterior of the Premises, the absence of public disturbance or Nuisance, and compliance with the zoning and other applicable regulations. The following supplemental use regulations shall apply:

a. All Private Clubs shall front and have access to an Arterial or Collector Street.

b. All off-street parking shall be provided between the front face of the Building and a point twenty-five (25) feet from the Right-of-Way line of adjoining Street(s). Parking Lots shall also be set back a minimum of fifty (50) feet and screened from any Lot lines of adjoining residences.

c. All outdoor recreation/activity areas shall be set back at least fifty (50) feet from any property line.

d. Screening shall be provided along any adjoining land within residential and Mixed-Use zoning districts specified in Table 2.01. Screening shall be provided in accordance with the Screening Standards specified in Section 4.03 of this Ordinance.

26. *Recreational Campground*.

A lodging establishment organized to accommodate five (5) or more separate, designated campsites for shelter in either privately owned or campground-owned lodging. The property may include amenities, such as site-specific electric and sewer hookups, public bath houses, convenience stores, recreational areas and pools. The campground may permit seasonal sites. Seasonal guests shall not be required to have month-to-month agreements. Approved guests may leave their trailer on the site throughout the year but may not maintain a permanent residence. The term shall not include a recreational vehicle or tent campsite in a Pennsylvania State Park facility. The following performance standards shall apply:

a. *Setback*. No camping site shall be located within one hundred (100) feet of a public Right-of-Way or within one hundred (100) feet of any property line or within three hundred (300) feet of a residence not located on the property of the recreational campground. No part of any setback shall be used for any other

required area for a campground, service Buildings, drives or water and sewage facilities which are located aboveground except to contain the required buffer yard.

b. *Buffer Yard*. A buffer yard shall be provided pursuant to the standards specified in Section 4.03 of this Ordinance.

c. *Campground*. A campground shall have a minimum Lot size of five (5) acres. If a campground is being developed on the same parcel as another use, for example a home or agricultural use, the parcel shall have enough acres to delineate the minimum five (5) acres to the campground while reserving the minimum acres required for the existing principal use.

d. *Campsites*. Individual campsites shall contain a minimum of 2,000 square feet with a minimum width of forty (40) feet. Each campsite shall provide a clear, level, well-drained, mud-free pad for accommodating trailers and campers. A maximum of ten (10) campsites per acre is permitted.

e. *Parking*. Parking shall be provided within the campground pursuant to the following requirements.

(1) Camping site parking shall provide a clean, mud-free, and well-drained area.

(2) No on-Street parking shall be permitted within the campground.

(3) Off-Street parking spaces for at least 2.5 motor vehicles shall be provided for each camping site.

f. *Streets and Roads*. Each camping site shall front upon an approved Street or road.

(1) One-way Streets and roads with camping site parking shall have an improved surface of no less than twelve (12) feet.

(2) Two-way Streets and roads with camping site parking shall have an improved surface of no less than twenty (20) feet.

(3) One-way Streets and roads with on-Street parking on one side shall have a paved surface of no less than twenty (20) feet, and twenty-eight (28) feet for parking on both sides.

(4) Two-way Streets and roads with on-Street parking shall have an improved surface of no less than twenty-eight (28) feet for one-side parking, and thirty-six (36) feet for both-side parking.

(5) Streets and roads shall be graded to provide drainage from the road surface. Drains and culverts shall be provided as necessary to maintain proper drainage.

27. *Self-Storage Facility*.

Any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such space for the purpose of storing and removing personal property. No occupant shall use a self-service storage facility for residential purposes. A self-storage facility shall not be used for Warehouse and Distribution purposes.

a. Minimum Lot area shall be not less than one (1) acre.

b. At least forty (40) feet of clear, unobstructed driveway depth shall be provided from the road to the primary access gate or principal entry point of the facility.

c. Interior drive aisle widths shall not be less than twenty-five (25) feet.

d. Buildings shall be designed and located so that overhead doors and the interior driveways within such facilities are not visible from the adjacent public Right-of-Way. This provision does not apply to overhead doors that are within an enclosed self-storage Building and that are visible only through windows of the Building.

e. No door openings for any storage unit shall be visible at ground level from any residentially zoned property or residential use.

f. All fences or walls visible from the public Right-of-Way shall be constructed of decorative Building materials such as slump stone masonry, concrete block, wrought iron, or other similar materials.

g. Boats, campers, recreational vehicles, and travel trailers may be stored outside of an enclosed Building, but only in an area designated for such outside storage on an approved site plan and not visible from the public Right-of-Way or adjacent property when viewed from the ground level.

h. The following uses are prohibited and all Self-Storage Facilities' rental and/or use contracts shall specifically prohibit the same:

(1) Residential use and/or occupancy.

(2) Bulk storage of flammable, combustible, explosive, or hazardous materials. Nothing in this Article is meant to prohibit the storage of motor vehicles, motor craft, or equipment that contain a normal supply of such fuels for their operation.

(3) Repair, construction, reconstruction, or fabrication of any item, including but not limited to, any boats, engines, motor vehicles, lawn mowers, appliances, bicycles, or furniture.

(4) Auctions, except as provided for the in Self-Service Storage Facilities Act (Act of Dec. 20, 1982, P.L. 1404, No. 325), commercial wholesale or retail sales not related to the storage activity on the premises or garage sales. Retail sales of supplies associated with the rental of storage units and/or rental of vehicles shall be permitted, such as boxes, packing tape, locks, and similar items.

(5) The operation of power tools, spray-painting equipment, compressors, welding equipment, kilns, or other similar tools or equipment.

(6) Any business activity within the storage units.

i. On-site management shall be provided for a minimum of twenty (20) hours per week, during the hours of 8:00 AM and 7:00 PM prevailing time. Contact information for management during the remaining hours of the day shall be prominently posted on the premises.

j. The maximum size for any storage unit shall be twenty (20) feet by forty (40) feet for a total maximum of eight hundred (800) square feet.

28. *Smoking Places*.

Establishments for which the sale of tobacco products for on-site consumption yields at least seventy-five (75) percent of gross revenues, including such Uses as hookah lounges.

29. *Tattoo/Piercing Parlor*.

Establishments primarily in the business of applying lettering, art, and other images with permanent and semi-permanent inks, paints, pigments, or piercings to the body of patrons.

30. *Truck Repair and/or Towing Service*.

A business involving the sale and distribution of fuel and providing repair and/or towing service for Trucks only. Truck car wash operations may also be included. The following supplemental use regulations shall apply:

a. *Permitted Types of Repair Service*. Repairs include minor and heavy repair services including engine rebuilding, bodywork, repair and replacement of cooling, electrical, fuel and exhaust systems, brake adjustments, relining and repairs, wheel alignment and balancing, suspension systems, and other mechanical and non-mechanical elements of Vehicles.

b. *Outdoor Storage*. Disabled or inoperable Vehicles and those awaiting pick-up may be stored outdoors if all the following occur:

(1) No more than ten (10) Vehicles are stored.

(2) The storage area is located in the Rear Yard and screened from view of the front Lot line. The screening shall be a minimum of eight (8) feet high and shall be a galvanized chain link fence with privacy slats.

(3) The storage area shall also be screened from adjacent uses pursuant to the screening requirements specified under Section 4.03 of this Ordinance.

(4) The Vehicles shall be stored in the designated storage area and not in the public right of way or in a part of the Lot not specifically designated as an off-street parking space.

(5) All ventilation associated with fuel storage tanks shall be setback one hundred (100) feet from any adjoining residential use or property within

a residential or Mixed-Use zoning districts and oriented away from such property.

(6) The Applicant shall furnish evidence that the storage and disposal of materials shall be accomplished in a manner that complies with all applicable state and federal regulations.

c. *Outdoor Activities*.

(1) All repairs or washing activities shall occur inside a Building.

(2) Temporary outdoor display of seasonal items, such as windshield wiper fluid or salt, is permitted during business hours adjacent to the principal Building.

d. *Environmental Controls*.

(1) Car washes shall include a water reclamation system for the purpose of recycling water.

(2) Centralized sewage disposal facilities and centralized water supply facilities shall be provided. Filtration of wastewater shall be conducted before discharge to a sanitary sewer system.

(3) A National Pollutant Discharge Elimination System (NPDES) permit from the Pennsylvania Department of Environmental Protection is required to discharge wastewater directly into a surface water body or to a storm sewer that discharges to a surface water body.

(4) Residual sludge shall be disposed of in accordance with the Pennsylvania Department of Environmental Protection requirements and standards.

31. Truck Sales and Rental Service.

A commercial facility that offers Trucks for sale, rent or lease for specific periods of time, including a stand-alone facility for Truck sales, rental or leasing services associated with an off-site Truck dealership. The following supplemental use regulations shall apply:

a. The site shall have frontage on and direct vehicular access to a Principal Arterial Street.

b. No point on the site boundary shall be located within three hundred (300) feet of any residential zoning district or residential property line.

c. Ingress, egress and internal traffic circulation shall be designed to ensure safety and minimize congestion.

d. All materials and equipment shall be stored within a completely enclosed Building, as defined herein.

32. *Truck Stop*.

An establishment engaged primarily in the fueling, servicing, repair, or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A Truck Stop may also include overnight accommodations, showers, convenience store, or restaurant facilities primarily for the use of Truck stop patrons. Truck stops may only be located outside a two (2) mile radius of another Truck Stop or Convenience Store use that includes refueling and overnight parking for commercial vehicles. The following supplemental use regulations shall apply:

a. The site shall have frontage on and direct vehicular access to a Principal Arterial Street.

b. No point on the site boundary shall be located within three hundred (300) feet of any residential zoning district or residential property line.

c. Ingress, egress and internal traffic circulation shall be designed to ensure safety and minimize congestion.

d. All materials and equipment shall be stored within a completely enclosed Building, as defined herein.

e. *Truck Idling*. Overnight Truck idling is prohibited within the Township limits. No person shall allow the primary propulsion engine of a motor vehicle to idle for more than ten (10) consecutive minutes when the motor vehicle is not in motion. Truck stop facilities shall provide signage indicating overnight idling is prohibited. Such signage must be located at the entrance of overnight parking Lots in a visible manner to Truck drivers. Exemptions from this requirement include the following:

(1) A motor vehicle that has a gross vehicle weight rating of 19,500 pounds or less.

(2) The primary propulsion engine of a motor vehicle being used to provide air conditioning or heating necessary for employee health or safety in an armored vehicle while the employee remains inside the vehicle to guard the contents or while the vehicle is being loaded or unloaded:

(3) A motor vehicle forced to remain motionless because of traffic conditions over which the operator has no control.

(4) A motor vehicle being used by the United States military, national guard, or reserve forces, or as an emergency or law enforcement motor vehicle.

(5) The primary propulsion engine of a motor vehicle providing a power source necessary for maintaining cargo climate control where Truck stop electrification technologies are not provided for motor vehicles.

(6) The primary propulsion engine of a motor vehicle being operated for minor maintenance or diagnostic purposes.

(7) The primary propulsion engine of a motor vehicle being operated solely to defrost a windshield.

(8) The primary propulsion engine of a motor vehicle that is being used for commercial or public passenger transportation. or passenger transit operations, in which case idling up to a maximum of thirty (30) minutes is allowed.

(9) The primary propulsion engine of a motor vehicle being used to perform an essential job function related to roadway construction or maintenance.

(10) Vehicles with a gross vehicle weight rating greater than 19,500 pounds that idle overnight must be equipped with a 2008 or subsequent model year heavy-duty diesel engine or liquefied or compressed natural gas engine that has been certified by the United States Environmental Protection Agency or another state environmental agency to emit no more than thirty (30) grams of nitrogen oxides emissions per hour when idling.

33. *Truck Wash*.

A facility for washing or steam cleaning commercial vehicles (including a self-service operation), operating either as a separate facility or when installed and operated in conjunction with another use, and which installation includes equipment customarily associated with a car wash and which is installed solely for the purpose of washing and cleaning commercial vehicles. The following supplemental use regulations shall apply:

a. Truck washes shall include a water reclamation system for the purpose of recycling water.

b. Centralized sewage disposal facilities and centralized water supply facilities shall be provided. Filtration of wastewater shall be conducted before discharge to a sanitary sewer system.

c. A National Pollutant Discharge Elimination System (NPDES) permit from the Pennsylvania Department of Environmental Protection is required to discharge wastewater directly into a surface water body or to a storm sewer that discharges to a surface water body.

d. Residual sludge shall be disposed of in accordance with the Pennsylvania Department of Environmental Protection requirements and standards.

e. On-Lot traffic circulation channels and parking areas shall be clearly marked.

f. Adequate provision shall be made for the proper and convenient disposal of refuse.

g. Water from the Truck Wash operation shall not flow onto sidewalks or Streets, to prevent hazards from ice.

(F) *Adult Uses.*

1. Adult Establishments.

Shall be defined as any of the following:

a. Any commercial establishment, including but not limited to Adult Book Stores, Adult Motion Picture Theaters, Adult Mini-Motion Picture Theaters, Adult Entertainment Cabaret, or other adult entertainment establishments, in which is offered for sale

ten (10) percent or more of its stock in trade video cassettes, movies, books, magazines, or other periodicals or other media which are distinguished or characterized by their emphasis on nudity or sexual conduct or activities which if presented in live presentation would constitute adult entertainment.

(1) *Adult Bookstore*. An establishment having as a substantial or significant portion of its stock in trade motion pictures, video recordings, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to Obscene activities for observation by patrons thereof or an establishment with a segment or section devoted to the sale, rental or display of such material.

(2) *Adult Cabaret*. A nightclub, bar, Restaurant or similar establishment that regularly features live performances that are characterized by the exposure of specific anatomical areas or by Specified Sexual Activities, or films, motion pictures, video cassettes, slides or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by any emphasis upon the depiction or description of specified activities or anatomical areas.

(3) Adult Mini-Motion-Picture-Theater. An enclosed Building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to Obscene activities for observation by patrons therein.

(4) *Adult Motion Picture Theater*. An enclosed Building with a capacity of fifty (50) or more Persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to Obscene activities for observation by patrons therein.

b. Any commercial establishment that offers for a consideration physical contact in the form of wrestling or tumbling between Persons of the opposite sex and/or gender.

c. Any commercial establishment that offers for consideration activities between male and female Persons and/or Persons of the same sex or gender when one or more Persons are nude or Semi-Nude.

d. Any commercial establishment that offers for a consideration nude human modeling.

e. *Proximity to Certain Uses*. No Building or Premises shall be used, and no Building shall be erected or altered, which is arranged, intended or designed to be used for an Adult Establishment if any part of such Building or Premises is situated on any part of a Lot within a five hundred (500) foot radius in any direction of any Lot used for, or upon which is located any Building used for any Residential Use; Place of Worship, Medical Clinic, medical office, Hospital, school, facility attended by Persons under the age of eighteen (18) (including but not limited to school programs, children's museums, camps, and athletic leagues), Park, or other Adult Establishment.

f. The additional Use regulations apply to all Adult Establishments:

(1) No more than five (5) percent of the Lot may be covered by Buildings or accessory Buildings.

(2) A buffer yard shall be provided pursuant to Section 4.03 of this Ordinance.

(3) Parking shall be provided for not less than one motor vehicle per two hundred (200) square feet of the GFA of the Building.

(4) No material, merchandise, film or service offered for sale, rent, lease, loan or for view shall be exhibited, displayed or graphically represented outside of a Building or Structure or that can be seen from the exterior of the Building.

(5) Any Building or Structure used and occupied as an adult regulated facility shall be windowless or have an opaque covering over all windows or doors of any area in which materials, merchandise, film, service, or entertainment are exhibited or displayed.

(6) No Sign shall be erected upon the premises depicting or giving a visual representation of the type of materials, merchandise, film, service, or entertainment offered therein.

(7) Each and every entrance to the Structure shall be posted with a notice of at least four (4) square feet that the Use is an adult regulated facility restricting persons under the age of eighteen (18) from entrance.

(8) No unlawful sexual activity or conduct shall be performed or permitted.

(9) *Prohibited Activities*. Any Use or activity prohibited by §5903 of the Pennsylvania Crimes Codes as amended and further defining the offense of obscenity, redefining Obscene and further providing for injunctions.

(10) No adult-related Use may change to another adult-related Use, except upon Conditional Use approval.

(11) The Use shall not create an enticement for minors because of its proximity to nearby uses where minors may congregate.

(12) No more than one adult-related Use may be located within one Building.

(G) *Employment Uses*.

A category of Uses for businesses involving activities that may not be associated with walk-in customers.

1. Craftsman Industrial.

A Use that includes a showroom or small retail outlet and production space, and involves small scale production, assembly, and/or repair. Craftsman Industrial includes such Uses as those found in Table 3.04.4, Typical Employment Uses. This Use may also include associated facilities such as offices and accessory on-site storage. The following supplemental use regulations shall apply:

a. The total GFA of indoor activities shall not exceed 3,000 sq. ft.

b. Outside on-site storage shall not exceed 1,000 sq. ft. and must be screened pursuant to Section 4.03 of this Ordinance.

Table 3.04.4, Typical Employment Uses.

Typical Office Uses	Typical Craftsman Industrial Uses
Architecture/Engineering/Design	Apparel and Finished Fabric Products
Broadcasting, Recording, and Sound Studio	Botanical Products
Business Consulting	Brooms and Brushes
Construction Trade and Contractor (office only)	Canning and Preserving Food
Charitable Institutions	Commercial Scale Copying and Printing
Computer Programming and Support	Cut Stone and Cast Stone
Data Processing	Electronics Assembly
Detective Services	Electrical Fixtures
Educational Services (tutor and testing)	Engraving
Employment Agency	Fabricated Metal Products
Financial and Insurance	Film Making
Government Offices and Facilities	Firearms and Ammunition
Laboratories, Medical, Dental, Optical	Furniture and Fixtures
Legal Services	Glass
Management Services	Household Textiles
Medical and Dental Offices (other than in hospitals or on a hospital campus, and other than clinics)	Ice
News Agency	Jewelry, Watches, Clocks, and Leather Products (no tanning)
Physical Therapy/Physical Rehabilitation	Meat and Fish Products, no processing
Public Relations and Advertising	Musical Instruments and Articles
Property Development	Pottery, Ceramics, and Related Products
Real Estate and Apartment Finders	Printing, Publishing and Allied Industries
Research and Development	Shoes and Boots
Research Agency	Signs and Advertising
Support Offices for other uses	Silverware
Surveying	Smithing
Trade Schools	Taxidermy (with incidental tanning)
Training Center	Textile, Fabric, Cloth
	Toys and Athletic Goods
	Upholstery
	Woodworking

2. *Data Center*.

A facility containing one or more large-scale computer systems used for data storage and processing for off-site users. Typical supporting equipment includes back-up batteries and power generators, cooling units, fire suppression systems, water storge and enhanced security features. A Water Cooling and/or Storage Systems may be permitted as an Accessory Use. The following supplemental use regulations shall apply:

a. Data Centers shall be subject to the bulk and area regulations set forth in Section 2.18(F) and the design criteria set forth in Section 2.18(G) of this Ordinance.

b. Sites for Data Centers outside the DCO District shall have frontage on and direct vehicular access to an Arterial or Collector Street.

c. *Access*. Vehicle access shall be provided pursuant to the requirements specified in the Middlesex Township Subdivision and Land Development Ordinance.

d. *Traffic Impact Study*. A traffic impact study prepared by a Registered Design Professional pursuant to the requirements specified under the Middlesex Township Subdivision and Land Development Ordinance shall be reviewed and approved by the Township Engineer.

e. *Water Feasibility Study*. A water feasibility study prepared by a qualified professional shall be provided with the zoning permit application. The purpose of the study will be to determine if there is an adequate supply of water for the proposed data center and to estimate the impact of the data center on existing public system and/or wells in the vicinity. No data center shall be approved without sufficient water and/or for a use that poses adverse impact on existing wells in the vicinity. If the source is from a municipal system, the applicant shall include documentation that the public authority will supply the water needed. A water feasibility study shall include the following minimum information:

(1) Calculations of the projected water needs.

(2) A geologic map of the area with a radius of at least one mile from the site.

(3) The location of all existing and proposed wells within 1,000 feet of the site, with a notation of the capacity of all high-yield wells.

(4) The location of all streams within 1,000 feet of the site and all known point sources of pollution.

(5) Based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined.

(6) A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table.

(7) Identification of how water will be recycled or released into surrounding water bodies

(8) A statement of the qualifications and the signature(s) of the person(s) preparing the study

(9) The applicant shall provide proof of review and approval from the Susquehanna River Basin Commission (SRBC) for projects that have:

(a) Water withdrawals of 100,000 gallons per day (gpd) or more over a 30-day average from any source or combination of sources within the Susquehanna River Basin.

(b) Any consumptive water use of 20,000 gpd or more over a 30-day average from any water source

f. *Electric*. The applicant should provide an interconnection agreement from the electric service provider indicating that capacity is available, and the data center will be served. Known impacts on electric rates or availability for others uses directly attributable to the data center project should be noted.

g. *Noise*. A noise study shall be performed and included in the application. The noise study shall be performed by an independent noise study expert and paid for by the Applicant. Noise from a Data Center shall not exceed 70 dBA, as measured at the property line. This requirement does not apply during a time of power outage.

3. *Office Uses*.

A category of Uses for businesses that involve the transaction of affairs and/or the training of a profession, service, industry, or government. Patrons of these businesses usually have set appointments or meeting times; the businesses do not typically rely on walk-in customers. Office Uses include those listed in Table 3.04.4, Typical Employment Uses. The following supplemental use regulations shall apply:

a. The site shall have frontage on and direct vehicular access to an Arterial Street.

b. *Access*. Vehicle access shall be provided pursuant to the requirements specified in the Middlesex Township Subdivision and Land Development Ordinance. The subject site shall have access to a Collector or Arterial Street.

c. Site illumination shall be provided in accordance with the lighting standards specified under Section 4.10 of this Ordinance.

d. *Traffic Impact Study*. A traffic impact study prepared by a Registered Design Professional pursuant to the requirements specified under the Middlesex Township Subdivision and Land Development Ordinance shall be reviewed and approved by the Township Engineer.

(H) *Infrastructure Uses*.

A category of Uses for the provision of public and private infrastructure to support other uses and/or the conveyance of people, goods, and services. Infrastructure Uses may not include a principal Building meeting the Building type requirements. Accessory Structures may be included.

1. *Airport*.

A principal use where aircraft are stored, maintained, repaired, and refueled, and where aircraft take-off and land. Airports may also include other accessory accommodations for

aircraft passengers, cargo, or both. The following supplemental use regulations shall apply:

a. *Minimum Lot Area*. Fifty (50) acres.

b. All facilities shall be designed and operated in strict compliance with all applicable State and Federal laws and regulations.

c. The Applicant shall furnish evidence of the obtainment of a license from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the conditional use application.

d. No part of the take-off/landing strip and/or pad shall be located nearer than 1,500 feet from any property line.

2. *Heliport*.

A use where one or more helicopters may land/take-off and be stored. Such use may also include support services such as fueling and maintenance equipment, passenger terminals and storage hangars. The following supplemental use regulations shall apply:

a. *Minimum Lot Area*. Five (5) acres.

b. All facilities shall be designed and operated in strict compliance with all applicable State and Federal laws and regulations.

c. The Applicant shall furnish evidence of the obtainment of a license from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the conditional use application.

d. No part of the take-off/landing strip and/or pad shall be located nearer than one hundred (100) feet from any property line.

3. *Helistop*.

A use on a roof or on the ground to accommodate helicopters for the purpose of picking up and discharging passengers or cargo with no service facilities. The following supplemental use regulations shall apply:

a. All facilities shall be designed and operated in strict compliance with all applicable State and Federal laws and regulations.

b. The Applicant shall furnish evidence of the obtainment of a license from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the conditional use application.

c. The proposed helistop would not be detrimental to the health, welfare and safety of the Township residents and their property.

d. The takeoff and landing pad area shall have a minimum length and width (or diameter if circular) of one and one-half (1.5) times the overall length of the largest helicopter intended to use the facility. All pads shall be paved, level, and maintained free of all loose stone and aggregate.

e. At least two (2) approach lanes, or each landing pad shall be provided and maintained free of obstructions and shall be located not less than ninety (90) degrees apart. Each approach lane shall be located within forty-five (45) degrees left or right of the prevailing winds and shall fan out at an angle of ten (10) degrees from the width of the landing pad to a width of 1,000 feet and shall have a glide angle slope of eight (8) to one (1) measured from the outer edge of the pad.

f. An application for the helistop on a roof shall be accompanied by a certification by a registered engineer that the loads imposed by the helicopter shall be supported by the Structure.

g. The helistop shall be used only for personal or executive use by a firm or individual.

h. No helicopter over 6,000 pounds gross weight shall use any helistop.

i. The helistop shall be located a minimum of 1,000 feet from any dwelling unit.

j. The Applicant shall furnish evidence of the obtainment of a license, if required, from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the conditional use application.

k. It shall be unlawful for any Person to land, discharge, load or take off in a helicopter in any place within the Township other than at a heliport or helistop except:

(1) In conjunction with a special event as an athletic contest, holiday celebration, parade or similar activity, after seven (7) days advance notice has been given to the Township and permission obtained to make such landing and takeoff.

(2) When necessary for police and/or fire training or when necessary for law enforcement purposes and for emergencies.

(3) In connection with a construction project where a helicopter is to be used to lift equipment in connection with such project.

(4) Spraying and dusting for agricultural purposes.

4. *Parking as a Principal Use*.

A Lot or Building that is primarily used for the exclusive parking of vehicles. The following supplemental use regulations shall apply:

a. *Corner Lot.* A Corner Lot shall not be used solely for parking.

b. *Adjacent Parking Facilities.* Two (2) principal parking facilities shall not be located directly adjacent to one another, except for a new Structured parking facility replacing an existing parking Lot.

5. *Principal Solar Energy Systems (PSES)*.

An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. A PSES is designed as the primary use on a Lot, wherein the power generated is used primarily for off-site consumption. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and Buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures. The following supplemental use regulations shall apply:

a. *Applicability*. Principal Solar Energy Systems (PSES) constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing solar energy system, whether or not existing prior to the effective date of this Section that materially alters the solar energy system shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

b. *Bulk and Area Dimensional Requirements*. Notwithstanding the bulk and area dimensional requirements of the underlying zoning district, the following requirements shall apply to PSES in all zoning districts.

(1) *Minimum Lot Size*. Twenty (20) acres.

(2) *Minimum Setbacks*.

(a) Fifty (50) ft. adjacent to a non-residential property line or district boundary (all yards)

(b) Sevent-five (75) ft. adjacent to a residential property line or district boundary, including the MU District.

(3) *Maximum Height*. Fifteen (15) ft.

(4) *Maximum Lot Coverage*. Shall be no greater than the maximum lot coverage specified in the applicable zoning district. However, such requirements do not apply if the proposed facility is exempt from stormwater requirements as noted in this Section.

c. The PSES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code as enforced by the Township and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

d. Upon completion of installation, the PSES shall be maintained in good working order in accordance with standards of the municipal codes under which the solar energy system was constructed. Failure of the property owner to maintain the

solar energy system in good working order is grounds for appropriate enforcement actions by the Township in accordance with applicable ordinances.

e. All on-site transmission and plumbing lines shall be placed underground to the extent feasible.

f. *PSES Principal Point of Contact*. The PSES Owner and/or operator shall maintain a phone number and identify a Person responsible for the public to contact with inquiries and complaints throughout the life of the project and provide this number and name to the Township. The PSES Owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.

g. *Noise*. A noise study shall be performed and included in the application. The noise study shall be performed by an independent noise study expert and paid for by the Applicant. Noise from a PSES shall not exceed fifty (50) dBA, as measured at the property line.

h. *Glare*.

(1) All solar energy systems shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways. Exterior surfaces shall have a non-reflective finish.

(2) The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

i. No portion of the solar energy system shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the solar energy system provided they comply with the prevailing sign regulations.

j. No trees or other landscaping otherwise required by the Township or as made a condition of approval of any plan, application, or permit may be removed for the installation or operation of a solar energy system.

k. Prior to the issuance of a zoning permit, PSES applicants must acknowledge in writing that the issuing of said permit shall not and does not create in the property owner or its successors nor assigns in title or create in the property itself the following. This acknowledgement shall be submitted to the Township and placed as a note on the required subdivision and/or land development plans.

(1) The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property, and

(2) The right to prohibit the development on or growth of any trees or vegetation on such property.

l. *Solar Easements*.

(1) Where a subdivision or land development proposes a PSES, solar easements may be provided. Said easements shall be in writing and shall

be subject to the same conveyance and instrument recording requirements as other easements.

(2) Any such easements shall be appurtenant, shall run with the land benefited and burdened, and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easement shall include but not be limited to following requirements:

(a) A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed;

(b) Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;

(c) Enumerate terms and conditions, if any, under which the easement may be revised or terminated; and

(d) Explain the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

(3) If necessary, a PSES Developer and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).

m. *Stormwater Requirements*. The Applicant shall submit a Stormwater Management Plan that demonstrates compliance with the stormwater management regulations specified in the Township Subdivision and Land Development Ordinance.

n. *Impervious Coverage*. Impervious coverage limitations established in this section and a detailed stormwater analysis including post construction stormwater management requirements pursuant to 25 Pa. Code § 102.8(n) are required for all solar energy systems unless the following requirements are met.

(1) The following components of a solar energy system shall be considered impervious coverage and calculated as part of the impervious coverage limitations for the underlying zoning district:

(a) Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.

(b) All mechanical equipment of the system including any structure for batteries or storage cells.

(2) Earth disturbance and grading activities shall be minimized, and natural vegetative cover shall be preserved or restored. Low impact construction techniques shall be used to the maximum extent practicable.

(3) The post-construction condition shall have a minimum uniform ninety (90) percent perennial vegetative cover with a density capable of resisting

accelerated erosion and sedimentation. In addition, the following criteria shall be met:

(a) A meadow condition is preferable. Ideal vegetation type is native deep-rooted perennial vegetation.

(b) Existing slopes on the project site shall be ten (10) percent or less. However, projects that need grading within array areas with slopes between ten (10) percent to fifteen (15) percent may be acceptable upon site/project evaluation and certification by a qualified professional engineer and the addition of slope protection, as deemed necessary. At a minimum, projects with slopes exceeding ten (10) percent shall consider options for maintaining sheet flow and dissipating energy at the drip edge of each row of panels. Sloped areas of greater than ten (10) percent) and any stormwater management features shall also be closely monitored for at least one full growing season after project completion or until vegetation is ninety (90) percent established. This would be in addition to routine inspections conducted during operation and maintenance throughout the life of the project. Vegetation reinforcement or additional BMPs shall be provided accordingly.

(c) Solar panels shall be configured in a manner such that they disconnect surfaces; and promote sheet flow and natural infiltration into the ground beneath the panels.

(d) If areas beneath the solar panels require mowing, the vegetative cover shall not be cut to less than four (4) inches in height.

(e) Vegetative areas shall not be subject to chemical fertilization or herbicide/pesticides application, except for those applications necessary to establish the vegetative cover (in accordance with an approved erosion and sediment plan) or to support crop production related to agrivoltaics.

(f) Compaction of subsoil shall be avoided. Vehicular traffic shall be kept to designated areas and any incidental traffic over the array field by contractors will be minimized to the maximum extent practicable. Construction vehicles and equipment shall avoid areas receiving disconnected runoff during installation of the solar panels. If compaction issues are encountered, the project proponent will be responsible to conduct restorative measures (e.g., subsoil shall be tilled and amended to return the soil to its pre-compaction condition). Areas receiving runoff shall be protected from future compaction.

(g) The site shall be designed to maintain applicable buffer distances from the delineated watercourse or wetland limits in accordance with federal, state, or local regulations.

(h) The site shall not be located directly upslope of areas that are subject to flooding issues-particularly to inhabited structures.

(i) Sites with soils having slip potential shall be more closely evaluated for any geotechnical issues-especially in areas with moderate to steep slopes.

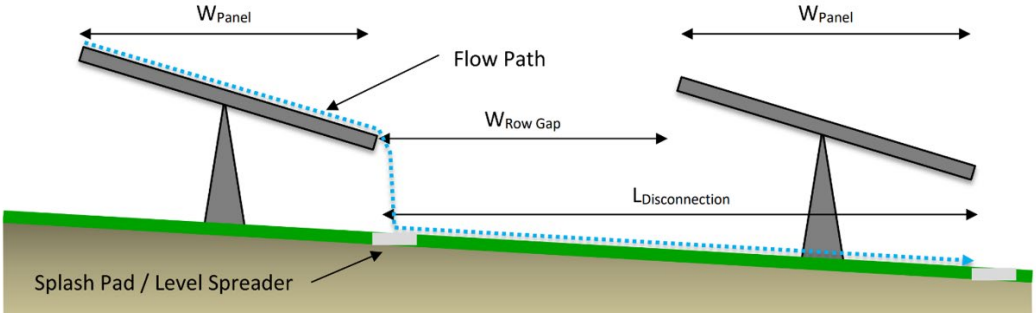
(4) The individual photovoltaic panels shall be arranged according to the following requirements:

(a) Allows and supports the passage of sheet flow between each module, thereby minimizing the production of concentrated runoff.

(b) Allows for the growth of vegetation beneath the panel and between 'arrays'. Shade tolerant vegetation is encouraged.

(c) The length of disconnection (the row gap distance between arrays and the distance beneath the downslope array) is sufficient to infiltrate the runoff from the upslope array. At a minimum, the gap distance between arrays shall be equal or greater than the width of the panel array (see Figure 3.04.1 below) and shall provide the minimum access as required under Subsection w.(2), Access, below.

Figure 3.04.1, Schematic Profile of Solar Panel Array Providing Impervious Area Disconnection, Source: Ohio, EPA, October 2019



(5) To qualify for the post construction stormwater management exemption, a qualified licensed professional must conduct an assessment of the proposed solar panel support structures/foundations with regard to increases in earth disturbance and impervious cover as compared to the existing condition. The assessment shall demonstrate no greater than a five (5) percent increase in impervious cover compared to the total site area (excluding access drives and service buildings).

(6) Solar Arrays shall achieve the lowest vertical clearance (when at resting position during storm events) while retaining sufficient height to sustain perennial deep-rooted vegetation and optimizing infiltration below the array. Limiting the vertical clearance of the solar array will minimize the potential for accelerated erosion to occur along the drip line of the solar array. Additional controls such as turf reinforcement/energy dissipation may be needed to address erosion and scour along the dripline-particularly in cases where the lowest vertical clearance of solar panels from the ground exceeds ten (10) feet.

o. *Proximity to Power Grid*. Any proposed PSES shall be located within the following distances of an adequately sized power line, a substation that is capable of accepting solar energy into the electricity grid, or another solar facility.

(1) *Maximum Distance to Three-Phased Power Lines*.

(a) *10 MWac or smaller*. 1,000 ft.

(b) *69 kV or higher*. One (1) mile

(2) *Distance to Substation*. Two (2) miles

p. *Plan Requirements*. A report and plan highlighting the existing conditions of the property shall be included in the submission to the Township. The information shall highlight existing vegetation, topography, and other existing natural features.

(1) Ground mounted PSES require submission of a land development plan if the solar project area is greater than 5,000 square feet.

(2) Roof mounted PSES do not require submission of a land development plan.

q. *Permit Requirements*.

(1) PSES shall comply with the Middlesex Township Subdivision and Land Development Ordinance requirements through submission of a land development plan. The installation of PSES shall be in compliance with all applicable permit requirements, codes and regulations.

(2) The PSES Developer and/or operator shall repair, maintain and replace the PSES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the PSES in good repair and operating condition.

r. *Decommissioning*.

(1) The PSES owner is required to notify the Township immediately upon cessation or abandonment of the operation. The solar energy system shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.

(2) The PSES Developer shall then have six (6) months from abandonment in which to dismantle and remove the solar energy system including all solar related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations and other associated facilities from the property. If the Developer fails to dismantle and/or remove the solar energy system within the established timeframes, the Township may complete the decommissioning at the Developer's expense.

(3) The PSES Developer shall, at the time of application, provide the Township with an estimate of the cost of performing the decommissioning activities required herein, together with an administrative and contingency factor equal to twenty-five (25) percent to account for the cost of obtaining permits to complete said activities. The estimate may include an estimated

salvage and resale value, discounted by a factor of twenty (20) percent. The decommissioning cost estimate formula shall be as follows:

[Gross Cost of Decommissioning Activities] + [Administrative Factor of Twenty-five (25) Percent] – [Salvage and Resale Credit of Eighty (80) Percent] = Decommissioning Cost Estimate.

(4) On every fifth (5th) anniversary of the date of providing the decommissioning financial security the PSES Developer shall provide an updated decommission cost estimate based on the formula set forth above with adjustments for inflation and construction cost and value changes. If the decommissioning security amount changes, the PSES Developer shall remit the increased financial security to the Township within thirty (30) days of the approval of the updated decommissioning security estimate by the Township.

(5) Decommissioning security estimates shall be subject to review and approval by the Township and the PSES Developer shall be responsible for administrative, legal, and engineering costs incurred by the municipality for such review.

(6) At no time shall the financial security be an amount less than $500,000.00.

(7) The decommissioning security may be in the form of cash, letter of credit, or an investment grade corporate guarantee rated BBB-/Baa3 or better by S&P, Moody's, or AM Best, as applicable.

(8) Prior to approval of any plan or permit for a PSES, the PSES Developer shall enter into a Decommissioning Agreement with the Township outlining the responsibility of the parties under this Agreement as to the decommissioning of the PSES.

s. *Environmental Protection*.

(1) All PSES must be set back fifty (50) feet from any area designated as a wetland, a FEMA Floodplain, or an area containing fifteen (15) percent slope or greater.

(2) All PSES shall be set back one hundred (100) feet from a property listed on, or eligible for listing on the National Register of Historic Places as designated by the State Historic Preservation Office of the National Park Service.

(3) In Agricultural Districts, the solar project area shall only be located on twenty-five (25) percent of the total Class I and Class II soils within the parcel boundary. This requirement does not apply if the project area is proposing agrivoltaics.

(4) In no case shall the solar project area occupy more than twenty (20) acres of Class I and Class II soils (as identified by USDA NRCS Web Soil Mapper) within the parcel boundary.

(5) The undeveloped portion of Class I and Class II soils shall be designed for agricultural use and adequate for maneuverability of typical farm equipment.

t. Ground mounted PSES shall be screened from adjoining residential uses or zones according to the requirements specified under Section 4.03 Buffering, Landscaping, and Screening of this Ordinance.

u. PSES shall not be placed within any legal easement or right-of-way location or be placed within any stormwater conveyance system or in any other manner that would alter or impede stormwater runoff from collecting in a constructed storm water conveyance system.

v. *Security*.

(1) All ground mounted PSES shall be completely enclosed by a minimum eight (8) foot high fence with a self-locking gate. The fence shall meet setback requirements noted in this section.

(2) A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence on the surrounding the PSES informing individuals of potential voltage hazards.

w. *Access*.

(1) A fifteen (15) foot minimum wide access road must be provided from a public Street into the site. All other design of the access road shall meet the requirements specified in the Middlesex Township Subdivision and Land Development Ordinance.

(2) A ten (10) foot minimum wide access aisleway shall be provided between each or every other row of solar arrays to allow for maintenance and emergency vehicle access. The aisleway width shall be the distance measured between the bottom edge of a solar panel to the top edge of the solar panel directly across from it.

(3) If the PSES is exempt from stormwater requirements as specified in this section, vegetation must be maintained or replaced after maintenance and/or emergency use.

x. PSES shall not be artificially lighted except to the extent required for safety or applicable federal, state, or local authority.

y. The Developer of a PSES shall provide the Township written confirmation that the public utility company to which the PSES will be connected has been informed of the customer's intent to install a grid connected system. The written confirmation shall include a statement of capacity and approval of the proposed connection.

z. *Roof and Wall Mounted PSES*.

(1) For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and adopted building code of the Municipality that the roof or wall is capable of holding the load imposed on the structure.

(2) PSES mounted on the roof or wall of any building shall be subject to the maximum height regulations of the underlying zoning district.

(3) The solar energy system Developer shall, at the request of the Township, provide information concerning the amount of energy generated by the solar energy system in the last twelve (12) months.

aa. *Utilities*. Notwithstanding the underground utility placement requirements of the Middlesex Township Subdivision and Land Development Ordinance, utilities serving PWES may be place above ground subject to Conditonal Use approval by the Board of Supervisors.

6. *Principal Wind Energy Systems (PWES)*.

A principal use on a parcel that converts and then stores or transfers energy from the wind into usable forms of energy on a large, industrial scale for commercial, or utility purposes. The following supplemental use regulations shall apply.

a. *Design and Installation*.

(1) Applications for PWES uses shall be subject to the requirements set forth below, as well as all other applicable state or federal regulations.

(2) The layout, design, and installation of a PWES shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), Det Norske Veritas, Germanischer Lloyd Wind Energies, the American Society of Testing and Materials (ASTM), or other pertinent certifying organizations and comply with all applicable Building and electrical codes of the Township. The manufacturer specifications shall be submitted as part of the application.

(3) Applicants shall submit a land development plan which shall be compliant with all the requirements of the Middlesex Township Subdivision and Land Development Ordinance.

(4) The Applicant shall provide sufficient documentation showing that the PWES shall comply with all applicable requirements of the Federal Aviation Administration (FAA) and the Pennsylvania Department of Transportation's (PennDOT) Bureau of Aviation (BOA).

(5) The PWES shall provide the Township written confirmation that the public utility company to which the PWES shall be connected has been informed of the intent to install a grid connected system and approved of such connection.

(6) *Visual Appearance*.

(a) All on-site utility, transmission lines, and cables shall be placed underground.

(b) The PWES shall be painted a non-reflective, flat color such as white, off white, or gray unless required to be colored differently from FAA or PennDOT Bureau of Aviation regulations.

(c) The PWES shall not be artificially lighted, except to the extent require by the Federal Aviation Administration or other applicable authority.

(d) The display of advertising is prohibited except for identification of the manufacturer of the system, facility Owner and operator.

(e) Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the PWES.

(f) Accessory structures and equipment associated with a PWES shall be screened pursuant to the standards specified in Section 4.03 of this Ordinance

(7) *Warnings and Safety Measures*.

(a) A clearly visible warning Sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

(b) All access doors to a PWES including electrical equipment, out Buildings and all appurtenances thereto, shall be locked or fenced to prevent entry by non-authorized personnel.

(c) PWES shall not be climbable up to fifteen (15) feet above ground surface or the climbing apparatus shall be fully contained and locked within the tower Structure.

(d) Visible, reflective, colored objects, such as flags, reflectors or tape shall be placed on the anchor points of guy wires and along the guy wires up to a Height of ten (10) feet from the ground.

(e) The Applicant shall provide a copy of the project summary and site plan to local emergency services, including the Township Fire Chief.

(f) The PWES facility Owner and/or operator shall abide by all applicable local, state and federal fire code and emergency guidelines. The facility Owner and/or operator shall provide emergency services with a response plan.

b. *Zoning Requirements*. Notwithstanding other provisions of this Ordinance, the following zoning standards shall apply to PWES uses.

(1) *Lot Size*. The PWES shall be separated from each other by a minimum of 1.1 times the total Height of the highest wind turbine.

(2) *Setbacks*.

(a) The PWES shall be set back from the nearest property line a distance of not less than the normal setback requirements for the zoning district or its total Height, whichever is greater.

(b) The PWES shall be set back from a Building, on a non-participating landowner's property, not less than 1.5 times its total Height measured from the center of the wind turbine base to the nearest point on the foundation of the occupied Building.

(c) The PWES shall be set back from a Building on a participating landowner's property, not less than its total Height measured from the center of the wind turbine base to the nearest point of foundation of the occupied Building. Any operator/occupied Building used in connection with the development are exempt from this distance limit.

(d) The PWES shall be set back from the nearest public road Right-of-Way a distance of not less than one and one-half (1.5) times its total Height measured from the center of the wind turbine base to the nearest Right-of-Way line of the public road.

(e) Each PWES shall be set back from above-ground electric power lines, public telephone lines and television cable lines a distance of no less than 1.1 times its total Height. The setback distance shall be measured from the center of the wind turbine generator base to the nearest point of such lines.

(f) All PWES shall be setback from any ridge a distance of not less than the wind turbine's total Height. For this provision, "ridge" shall be defined as the elongated crest or series of crests at the uppermost point of intersection between opposite slopes of a mountain and including all land lying between such point and an elevation two hundred fifty (250) feet below the elevation of such point.

(g) The PWES shall be set back a minimum of one hundred (100) feet from the Appalachian Trail Conservation District; a Historic Resource, Historic Structure, or Historic Site; and Important Bird Areas as identified by Pennsylvania Audubon and at least fifty (50) feet from identified wetlands.

(h) Each Wind Turbine shall be set back from the Appalachian Trail and any historic Structure, district, site or resource listed in the state inventory of historic places maintained by the Pennsylvania Historical and Museum Commission a distance no less than 2,500 feet. The setback distance shall be measured from the center of the wind turbine generator base to the nearest point on the foundation of an historic Building, Structure or resource, or the nearest property line of an historic district or site or the Appalachian Trail.

(i) Accessory Buildings, structures, and related equipment to the PWES shall comply with the Building setback requirements of the underlying zoning districts.

(3) *Height*.

(a) There shall be no specific Height limitation, so long as the total Height meets sound and set-back requirements, except as imposed by FAA regulations.

(b) The minimum Ground Clearance shall be thirty (30) feet.

(4) A PWES shall not be located on a Lot of record containing slopes equal to or exceeding twenty-five (25) percent on fifty (50) percent or more of the Lot of record. This standard shall apply to each Lot where a PWES extends across multiple Lots of record.

c. *Operational Standards*.

(1) *Use of Public Roads*.

(a) The Applicant shall identify all state and local public roads to be used within the Township to transport equipment and parts for construction, operation or maintenance of the PWES.

(b) The Township Engineer shall document public road conditions prior to construction of a PWES. The Engineer shall document road conditions within thirty (30) days after construction of the permitted project is complete, or as soon thereafter as weather may allow.

(c) Any road damage caused by the Applicant, facility Owner, operator, or contractors shall be promptly repaired to the Township's satisfaction at the expense of the Applicant and/or facility Owner.

(d) Every effort should be made to use existing roads and logging roads. New deforestation and forest fragmentation should be kept to a minimum.

(2) *Noise*.

(a) Audible sound from a PWES shall not exceed fifty-five (55) dBA, as measured at the property line between participating and non-participating landowners.

(b) Noise limits may be exceeded during short-term events such as utility outages and/or severe windstorms.

(c) Methods for measuring and reporting acoustic emissions from a PWES shall be equal to or exceed the minimum standards for precision described in American Wind Energy Association (AWEA) Standard 2.1 - 1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier, as amended.

(3) A Wind Turbine shall not cause vibrations through the ground which are perceptible beyond the property line of the parcel on which it is located.

(4) *Shadow Flicker*.

(a) The PWES shall not cause shadow flicker on any occupied Building on a non-participating landowner's property.

(b) The PWES shall be designed in such a manner as to minimize shadow flicker on a roadway.

(c) The facility Owner and operator shall conduct, at the Applicant's expense, a modeling study demonstrating that shadow flicker shall not occur on any occupied Building on a non-participating property.

(5) *Public Inquiries and Complaints*.

(a) The PWES facility Owner and/or operator shall maintain a phone number that is posted on-site of the PWES facility and identify a responsible Person for the public to contact with inquiries and complaints throughout the life of the project.

(b) The PWES facility Owner and/or operator shall respond to the public's inquiries and complaints.

(6) The PWES facility Owner and/or operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least $1 million per occurrence and $1 million in the aggregate. A certificate of insurance shall be made available to the Township upon request.

(7) *Decommissioning*.

(a) The PWES facility Owner and/or operator shall, at his expense, complete decommissioning of the PWES and all related improvements within twelve (12) months of the date when the use of the particular a PWES has been discontinued or abandoned by the facility Owner and/or operator, or upon termination of the useful life of same. The PWES shall be presumed to be discontinued or abandoned if no electricity is generated by such a PWES for a continuous period of twelve (12) months.

(b) Decommissioning shall include removal of wind turbines, Buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and any other associated facilities.

(c) Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(d) An independent and certified Registered Design Professional shall be retained to estimate the cost of decommissioning without regard to salvage value of the equipment. Said estimates shall be submitted to Township after the first year of operation and every fifth (5th) year thereafter.

(e) The PWES facility Owner and/or operator shall post and maintain decommissioning funds in an amount of one hundred ten (110) percent of the identified decommissioning costs, as adjusted over time. The decommissioning funds shall be posted and maintained with a bonding company or Federal or Commonwealth chartered lending institution chosen by the facility Owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct business within the Commonwealth and is approved by the Township.

(f) Decommissioning funds may be in form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the Township.

(g) If the PWES facility Owner and/or operator fails to complete decommissioning within the period prescribed above, then the landowner shall have six (6) months to complete the decommissioning.

(h) If the PWES facility Owner and/or operator, nor the landowner complete decommissioning within the periods described above, then the Township may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a participating landowner agreement to the Township shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Township may take such action as necessary to implement the decommissioning plan.

(i) The escrow agent shall release the decommissioning funds when the facility Owner or operator has demonstrated and the Township concurs that decommissioning has been satisfactorily completed, or upon written approval of the Township in order to implement the decommissioning plan.

d. *Application Requirements*. A Conditional Use application for a PWES shall include the following:

(1) A narrative describing the proposed PWES, including an overview of the project, the project location, the approximate generating capacity of the PWES, the approximate number, representative types and Height or range of heights of the PWES to be constructed including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.

(2) An affidavit or similar evidence of agreement between the landowner and the PWES facility Owner and/or operator demonstrating that the Owner and/or operator has the permission of the property Owner to apply for necessary permits for construction and the operation of the PWES and setting forth the Applicant's and property Owner's name, address and phone number.

(3) Identification of the properties on which the proposed a PWES shall be located, and the properties adjacent to where the PWES shall be located.

(4) A site plan showing the planned location of each PWES, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the PWES to the substation(s), ancillary equipment, Buildings, and structures, including permanent meteorological towers, associated transmission lines and layout of all structures within the geographical boundaries of any applicable setback.

(5) A noise study in accordance with Subparagraph 3.c.(2) above.

(6) A shadow flicker study in accordance with Subparagraph 3.c.(4) above.

(7) A Decommissioning Plan sufficient to demonstrate compliance with Subparagraph 3.c.(7) above.

(8) A wind resource study shall be submitted documenting wind resources at the site. The study shall include but is not limited to data showing average wind speeds capable of generating electricity and the available capacity to transmit the electricity into the power grid.

(9) Other relevant studies, reports, certifications and approvals as required by this Ordinance or as may be requested by the Township to ensure compliance with this Ordinance.

(10) Throughout the permit process, the Applicant shall promptly notify the Township of any changes to the information contained in the conditional use/special exception permit application. Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed public hearing.

7. *Transit Bus Stops*.

Uses include both sheltered and non-sheltered infrastructure facilities that provide passengers safe access to both fixed-route and demand responsive public transportation services. The following supplemental use regulations shall apply:

a. Bus stop infrastructure, including ADA loading pads, bus passenger benches, and bus shelters, as well as bus stop location Signs and bus stop passenger information Signs, shall be permitted by right in all zoning districts and shall be considered an Accessory Use/Structure that can stand alone without the accompanying Principal Use.

b. Bus stop infrastructure shall be exempt from minimum Lot size, Open Space, yards, and setback requirements of the governing zoning district(s).

c. The location and design of the bus stop infrastructure shall be reviewed and approved by the applicable transit agency and Township. The transit agency shall provide written documentation certifying that a location is an existing or potential future bus stop.

d. Whenever an ADA loading pad, bench for a bus stop, and/or bus shelter is provided, the applicable off-street parking requirements for the Lot's Principal

Use may be reduced by one or more vehicular parking space(s) for each bus stop location.

e. Bus stop location Signs and bus stop passenger information Signs installed and maintained by the transit agency shall be permitted within the public Right-of-Way and on private property and shall be exempt from the Sign requirements specified under Section 5 of this Ordinance.

8. *Transit Facility*.

Any motor bus, rapid transit, or other ground transportation system having as its primary purpose the regularly scheduled movement of passengers and goods through fixed route, shared ride, non-medical assistance, or medical assistance transportation services between locations within the territorial boundaries of a regional transit authority, including all Rights-of-Way, rolling stock, equipment, machinery, terminals, buildings, administration and maintenance and repair facilities, and supporting parking energy facilities, that are reasonably necessary for the comfort and accommodation of the users of transit facilities; or any combination of the foregoing.

9. *Transportation and Essential Services*.

A Use that is primarily utilized for the public infrastructure needs and services. Transportation and Essential Services (not including Transit Bus Stops and Transit Facility uses) include such Uses as Street Rights-of-Way, rail Rights-of-Way, public transportation services, electric or gas services, sewage treatment, water treatment and storage, pumping stations, transmission and receiving stations, and energy conversion systems, and any equipment or facilities as defined under Title 66 Pa. C.S.A. Public Utilities.

10. *Wireless Communications Facilities (WCF)*.

An Antenna facility or a wireless support Structure that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

a. *Purpose*.

(1) The purpose of these standards is to govern the use, construction, and location of wireless communications facilities in recognition of the nature of wireless communications systems and the Federal Telecommunications Act. These regulations are intended to:

(a) Accommodate the need for wireless communications facilities to ensure the provision for necessary services while preserving the character of the Township;

(b) Minimize the adverse visual effects and the number of such facilities through proper design, locating, screening, material, color, and finish and by requiring that competing providers of wireless communications services collocate their telecommunication and wireless communications antennas and related facilities;

(c) Address new wireless technologies, including, but not limited to, distributed Antenna systems, data collection units, and other WCFs;

(d) Ensure the structural integrity of wireless communications facilities through compliance with applicable industry standards and regulations; and

(e) Promote the health, safety, and welfare of the residents and property owners within the Township.

b. *Regulations Applicable to All Wireless Communications Facilities*. The following regulations shall apply to all Wireless Communications Facilities (WCFs).

(1) Wireless communications facilities shall be permitted within the Township as follows:

(a) Tower-Based Wireless Communications Facilities shall be permitted as specified in Table 3.02.1, provided that the proposed Wireless Communications Facilities comply with the applicable requirements of this Ordinance.

(b) Small Wireless Communications Facilities Inside Public Rights-of-Way shall be permitted as specified in Table 3.02.1, provided that the proposed Wireless Communications Facilities comply with the applicable requirements of this Ordinance.

(c) Small Wireless Communications Facilities Outside Public Rights-of-Way shall be permitted as specified in Table 3.02.1, provided that the proposed Wireless Communications Facilities comply with the applicable requirements of this Ordinance.

(2) *Standard of Care*. All WCFs shall meet all applicable standards and provisions of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate wireless communications facilities, the latest National Electrical Safety Code (NESC), American National Standards Institute (ANSI) Code, and the structural standards of the American Association of State Highway and Transportation Officials or any other industry standard applicable to the Structure. In case of conflict, the most stringent requirements shall prevail. All necessary certifications shall be obtained by the WCF Applicant and provided to the Township.

(3) *Engineer Signature*. All plans and drawings included in an application for a WCF shall contain a seal and signature of a Registered Design Professional.

(4) *Eligible Facilities Requests*. WCF Applicants proposing the Modification or Replacement of an existing WCF shall be required only to obtain a zoning permit from the Township Zoning Officer. In order to be considered for such a permit, the WCF Applicant shall submit a permit application to the Township Zoning Officer in accordance with applicable permit policies and procedures. Such permit application shall clearly state that the proposed Modification or Replacement constitutes an Eligible Facilities Request pursuant to the requirements of 47 CFR § 1.6100. The permit application shall clearly detail all dimensional changes being made to the WCF and Wireless Support Structure and certify that such changes are in compliance with the requirements of 47 CFR § 1.6100.

(5) *Substantial Change*. Any Substantial Change to a WCF shall be treated as an application for a new WCF in accordance with this Ordinance and applicable FCC rules and orders. Substantial Change shall be defined according to Section 6409(a) of the Spectrum Act, aka, Middle Class Tax Relief and Job Creation Act of 2012.

(6) *Aviation Safety*. All WCFs shall comply with all federal and state laws and regulations concerning aviation safety.

(7) *Public Safety Communications*. WCFs shall not interfere with public safety communications, or the reception of broadband, television, radio, or other communication services enjoyed by occupants of nearby properties.

(8) *Radio Frequency Emissions*. A WCF shall not, by itself or in conjunction with other WCFs, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended. The WCF Applicant shall submit proof of compliance with all applicable standards relating to radio frequency emissions as part of any complete WCF application.

(9) *Noise*. WCFs shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and as stipulated in Section 4.19 of this Ordinance, except in emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only as permitted by the Township.

(10) *Non-conforming Wireless Support Structures*. WCFs shall be permitted to collocate upon existing non-conforming Wireless Support Structures. Collocation of WCFs upon existing Wireless Support Structures is encouraged even if the Wireless Support Structure is non-conforming as to use within a zoning district.

(11) *Permit Fees*. The Township may assess appropriate and reasonable permit fees directly related to the Township's actual costs in reviewing and processing the application for approval of a WCF, as well as related inspection, monitoring, and related costs. Such permit fees shall be established by the Township fee schedule.

(12) *Indemnification*. Each Person that owns or operates a WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the Township, its elected and appointed officials, employees, and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the Person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the WCF. Each Person that owns or operates a WCF shall defend any actions or proceedings against the Township in which it is claimed that personal injury, including death or property damage, was caused by the construction, installation, operation, maintenance, or removal of a WCF. The obligation to indemnify, hold harmless, and defend shall include, but not be limited to, the obligation to

pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs, and all other costs of indemnification.

(13) *Non-commercial Usage Exemption*. Township residents utilizing satellite dishes, citizen and/or band radios, and Antennas for the purpose of maintaining television, phone, and/or internet connections at their residences shall be exempt from the regulations enumerated in this Article.

(14) *Abandonment*. In the event that the use of a WCF is to be discontinued, the Owner shall provide written notice to the Township of its intent to discontinue use and the date when the use shall be discontinued. A WCF not operated for a period of six (6) months shall be considered abandoned. Discontinued or abandoned WCFs, or portions of WCFs, shall be removed as follows:

(a) All abandoned or unused WCFs and Accessory Equipment shall be removed within ninety (90) days of the cessation of operations at the site or receipt of notice that the WCF has been deemed abandoned by the Township unless a time extension is approved by the Township.

(b) If the WCF or Accessory Equipment is not removed within ninety (90) days of the cessation of operations at a site or receipt of notice that the WCF has been deemed abandoned by the Township, or within any longer period approved by the Township, the WCF and/or associated facilities and equipment may be removed by the Township and the cost of removal assessed against the Owner of the WCF.

(15) *Maintenance*. The following maintenance requirements shall apply:

(a) Structures and facilities deployed by a wireless provider shall be constructed, maintained and located in a manner as to not obstruct, endanger or hinder the usual travel or public safety on a Right-of-Way, damage or interfere with other utility facilities located within a Right-of-Way or interfere with the other utility's use of the utility's facilities located or to be located within the Right-of-Way.

(b) The construction and maintenance of structures and facilities by the wireless provider shall comply with the 2017 National Electrical Safety Code and all applicable laws, ordinances and regulations for the protection of underground and overhead utility facilities.

(16) *Landscaping*. The following landscaping shall be required to screen as much of the support structure as possible, the fence surrounding the support structure, and any other ground-level features (such as a building), and in general soften the appearance of the personal wireless service facility site. The Township Board of Supervisors may permit any combination of existing vegetation, topography, walls, decorative fences, or other features instead of landscaping if they achieve the same degree of screening as the required landscaping. If the Antenna is mounted on an existing structure and other equipment is housed inside an existing structure, landscaping shall not be required.

(a) An evergreen screen shall be required to surround the site. The screen can be either a hedge (planted three (3) feet on center maximum) or a row of evergreen trees (planted ten (10) feet on center maximum). The evergreen screen shall be a minimum height of six (6) feet at planting and shall grow to a minimum of fifteen (15) feet at maturity.

(b) In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

c. *Small Wireless Communications Facilities*. The following regulations shall apply to Small Wireless Communications Facilities:

(1) *Application Requirements*.

(a) Small WCFs inside the public Rights-of-Way are a permitted use in all Township zoning districts, except the ATC District, subject to the requirements of this Article and generally applicable permitting as required by the Township. Applications for Small WCFs shall be submitted to the Township Zoning Officer.

(b) Small WCFs outside the public Rights-of-Way are permitted by right in all Township zoning districts as shown in Table 3.02.1. Applications for Small WCFs shall be submitted to the Township Zoning Officer.

(c) An application for a Small WCF shall include the following:

i. Documentation that includes construction and engineering drawings demonstrating compliance with the requirements of this Article;

ii. Self-certification that the filing and approval of the application is required by the WCF Applicant to provide additional capacity or coverage for wireless services;

iii. Documentation demonstrating compliance with the requirements of the *Small Wireless Communications Facility Design Manual* included in Appendix A of this Ordinance;

iv. If the Small WCF shall require the installation of a new Wireless Support Structure, documentation showing that the WCF Applicant has made a good faith determination that it cannot meet the service reliability and functional objectives of the application by Collocating on an existing Wireless Support Structure. Such determination shall be based on whether the WCF Applicant can meet the service objectives of the application by collocating on an existing Wireless Support Structure on which:

[1] The WCF Applicant has the right to Collocation;

[2] The Collocation is Technically Feasible and would not impose substantial additional cost; and

[3] The Collocation would not obstruct or hinder travel or have a negative impact on public safety.

v. Documentation showing that the Small WCF does not materially interfere with the safe operation of traffic control equipment, sight lines, or clear zones for transportation or pedestrians or compliance with the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) or similar Federal or State standards regarding pedestrian access or movement; and

vi. A report prepared by a Registered Design Professional, which shows that the Small WCF shall comply with all applicable FCC regulations, including but not limited to those relating to radio frequency emissions.

(2) *Applications Not Required*. The Township shall not require an application for:

(a) Routine maintenance or repair work;

(b) The replacement of Small WCFs with Small WCFs that are substantially similar or the same size or smaller and still qualify as a Small WCF; or

(c) The installation, placement, maintenance, operation, or replacement of Micro Wireless Facilities that are strung on cables between existing utility poles by or for a WCF Applicant that is authorized to occupy the ROW, in compliance with the National Electrical Safety Code.

(3) *Location and Development Standards*.

(a) All Small WCFs shall comply with the applicable requirements of the Americans with Disabilities Act and the Middlesex Township Subdivision and Land Development Ordinance.

(b) No Small WCF shall be located on a private Lot in a residential district or on any single-family detached residences, single-family attached residences, semi-detached residences, duplexes, or any other residential Structure.

(c) All Small WCFs shall be installed and maintained so as not to obstruct nor hinder travel or public safety within the ROW.

(4) *Design Standards*. All Small WCFs in the Township shall comply with the requirements of the Township *Small Wireless Communications Facility Design Manual*. A copy of such shall be kept on file at the Township.

(5) *Time, Place, and Manner*. The Township shall determine the time, place, and manner of construction, maintenance, repair, and/or removal of all Small WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations.

(6) *Private Property*. If a Small WCF is to be located outside of the public ROW, or if any part of a Small WCF located in the public ROW shall encroach upon private property, the WCF Applicant shall provide the Township Zoning Officer with evidence that the Owner of such private property has granted permission for the construction of the Small WCF.

(7) *Minimum Setbacks*. The minimum distance between the base of a Small WCF, located outside of the public ROW, that requires the installation of a new Wireless Support Structure and any adjoining property line or Street ROW line shall be equal to one hundred (100) percent of the Height of the Small WCF.

(8) *Historic Buildings*. No Small WCF may be located within one hundred (100) feet of any property, or on a Building or Structure that is listed on either the National or Pennsylvania Registers of Historic Places, or eligible to be so listed, located within a historic district, or is included in the official historic structures list maintained by the Township.

(9) *Third-Party Property*. Where a Small WCF is proposed for Collocation on a Wireless Support Structure, located on private property, or other property that is not owned by the WCF Applicant, the WCF Applicant shall present evidence to the Zoning Officer that the Owner of the Wireless Support Structure has authorized construction of the proposed Small WCF.

(10) *Graffiti*. Any graffiti on a Small WCF, including the Wireless Support Structure and any Accessory Equipment, shall be removed at the sole expense of the Owner within thirty (30) days of notification by the Township.

(11) *Timing of Approval*.

(a) Within ten (10) calendar days of the date that an application for a Small WCF is filed with the Township Zoning Officer, the Township shall notify the WCF Applicant in writing of any information that may be required to complete such application.

(b) Within sixty (60) days of receipt of an application for Collocation of a Small WCF on a pre-existing Wireless Support Structure, and subject to applicable tolling procedures as established by federal law, the Township Zoning Officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.

(c) Within ninety (90) days of receipt of an application for a Small WCF requiring the installation of a new or replacement Wireless Support Structure, and subject to applicable tolling procedures as established by federal law, the Township Zoning Officer shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.

(d) If the Township denies an application for a Small WCF, the Township shall provide the WCF Applicant with written

documentation of the basis for denial within five (5) business days of the denial.

(e) The WCF Applicant may cure the deficiencies identified by the Township and resubmit the application within thirty (30) days of receiving the written basis for the denial without being required to pay an additional application fee. The Township shall approve or deny the revised application within thirty (30) days of the application being resubmitted for review.

(12) *Consolidated Application*.

(a) A WCF Applicant may submit a consolidated application for Collocation of multiple Small WCFs. The consolidated application shall not exceed twenty (20) Small WCFs.

(b) A WCF Applicant may not submit more than one consolidated application in a single thirty (30) day period.

(c) If a WCF Applicant submits more than one consolidated application in a forty-five (45) day period, the applicable processing deadline shall be extended fifteen (15) days in addition to the processing deadline specified in Subparagraph (11) above.

(13) *Repair and Restoration*.

(a) The WCF Applicant shall repair all damage to the ROW or any other land so disturbed, directly caused by the activities of the WCF Applicant or the WCF Applicant's contractors and return the ROW to as good of condition as it existed prior to any work being done in the ROW by the WCF Applicant or the WCF Applicant's contractors.

(b) If the WCF Applicant fails to make the repairs required by the Township within thirty (30) days after written notice, the Township may perform those repairs and charge the WCF Applicant the reasonable, documented cost of the repairs plus a penalty of five hundred dollars ($500.00)

(c) The Township may suspend the ability of the WCF Applicant to receive new permits until the WCF Applicant has paid the amount assessed for the repair costs and the assessed penalty.

(14) *Relocation or Removal of Facilities*.

(a) Within sixty (60) days of suspension or revocation of a permit due to noncompliance with the requirements of the Township, the WCF Applicant shall remove the Small WCF and any Accessory Equipment, including the Wireless Support Structure, if the WCF Applicant's WCF(s) are the only facilities on the Wireless Support Structure.

(b) Within ninety (90) days of the end of a permit term, the WCF Applicant shall remove the Small WCF and any Accessory Equipment, including the Wireless Support Structure, if the WCF Applicant's WCF(s) are the only facilities on the Wireless Support Structure.

(c) Following written notice from the Township, or such longer period as the Township determines is reasonably necessary or such shorter period in the case of an emergency, the WCF Applicant shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any Small WCF when the Township, consistent with its police powers and applicable Public Utility Commission regulations, shall determine that such removal, relocation, change, or alteration is reasonably necessary under the following circumstances:

i. The construction, repair, maintenance, or installation of any Township or other public improvement in the ROW;

ii. The operations of the Township or other governmental entity in the ROW;

iii. Vacation of a Street or road or the release of a utility easement; or

iv. An emergency as determined by the Township.

(15) *Reimbursement for ROW Use*. In addition to permit fees as described in this section, every Small WCF in the ROW is subject to the right to fix annually a fair and reasonable fee as stipulated in the Township's adopted Fee Schedule to be paid for use and occupancy of the ROW. Such compensation for ROW use shall be directly related to the Township's actual ROW management costs, including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising, and other ROW management activities by the Township. The Owner of each Small WCF shall pay an annual fee to the Township to compensate the Township for the Township's costs incurred in connection with the activities described above. Such fees shall comply with the applicable requirements of the Federal Communications Commission.

d. *Tower-Based Wireless Communications Facilities*. The following regulations shall apply to all Tower-Based Wireless Communications Facilities.

(1) *Small WCF Exemption*. Tower-Based WCFs that meet the definition of a Small WCF shall be exempt from the requirements of this Article. Such Small WCFs shall be subject only to applicable permitting and the requirements of Subparagraphs (H)2.b and (H)2.e.

(2) *Special Exception Required*. Tower-Based WCFs are permitted outside the public Rights-of-Way as a Special Exception and at a Height necessary to satisfy their function in the WCF Applicant's wireless communications system, subject to the requirements of this Article.

(a) Upon submission of an application for a Tower-Based WCF and the scheduling of the public hearing upon the application, the WCF Applicant shall send via First Class Mail notice to all owners of every property within five hundred (500) feet of the proposed facility, advising of the subject matter and date of such hearing. Such notice shall be sent at least ten (10) days in advance of the scheduled public hearing. The WCF Applicant shall provide proof of the notification to the Zoning Hearing Board along with the list of return receipts received.

(b) The Special Exception application shall include a site plan, drawn to scale, showing property boundaries, power location, total Height of the Tower-Based WCF, guy wires and anchors, existing structures, elevation drawings, typical design of proposed structures, parking, fences, landscaping and existing uses on adjacent properties.

(c) The Special Exception application shall be accompanied by a description of the type and manufacturer of the proposed transmission/radio equipment, the frequency range (megahertz band) assigned to the WCF Applicant, the power in watts at which the WCF Applicant transmits, and any relevant related tests conducted by the WCF Applicant in determining the need for the proposed site and installation.

(d) The Special Exception application shall include evidence that a significant gap in wireless coverage or capacity exists in the applicable area and that the type of WCF being proposed is the least intrusive means by which to fill that gap in wireless coverage. The existence or nonexistence of a gap in wireless coverage shall be a factor in the Zoning Hearing Board's decision on an application for approval of Tower-Based WCF.

(e) Where the Tower-Based WCF is located on a property that is not owned by the WCF Applicant, the Special Exception application shall include evidence to the Zoning Hearing Board that the Owner of the property has granted an easement or other property right, if necessary, for the proposed WCF and any vehicular access that shall be provided to the facility.

(f) The Special Exception application shall include a written certification by a structural engineer licensed in the Commonwealth of Pennsylvania of the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the Structure.

(g) The Special Exception application shall include evidence demonstrating that the proposed Tower-Based WCF cannot be accommodated on an existing Wireless Support Structure. The Zoning Hearing Board may deny an application to construct a new Tower-Based WCF if the WCF Applicant has not made a good faith effort to mount the Antenna(s) on an existing Wireless Support

Structure. The WCF Applicant shall demonstrate that it contacted the owners of all potentially feasible structures, Buildings, and towers within a thousand (1,000) foot radius of the site proposed, sought permission to install an Antenna on those structures, Buildings, and towers, and was denied for one of the following reasons:

i. The proposed WCF would exceed the structural capacity of the existing Building, Structure, or tower, and its reinforcement cannot be accomplished at a reasonable cost.

ii. The WCF would cause radio frequency interference with other existing equipment for that existing Building, Structure, or tower, and the interference cannot be prevented at a reasonable cost.

iii. Such existing Buildings, structures, or towers do not have adequate location, space, access, or Height to accommodate the proposed equipment or to allow it to perform its intended function.

iv. A reasonable agreement could not be reached with the Owner of such Building, Structure, or tower.

(h) The Special Exception application shall also be accompanied by documentation demonstrating that the proposed Tower-Based WCF complies with all applicable provisions of this Ordinance.

(3) *Development Regulations*.

(a) Tower-Based WCFs shall not be located in or within seventy-five (75) feet of an area in which all utilities are located underground.

(b) *Sole use on a Lot*. A Tower-Based WCF may be permitted as the sole use on a Lot, provided the Tower-Based WCF and underlying Lot comply with all applicable requirements of this Ordinance.

(c) *Combined with Another Use*. A Tower-Based WCF may be permitted on a property with an existing use, except residential, subject to the following conditions:

i. The existing use on the property may be any permitted use in the applicable district and need not be affiliated with the WCF.

ii. *Minimum Lot Area*. The minimum Lot shall comply with the requirements for the applicable zoning district and shall be the area needed to accommodate the Tower-Based WCF and Accessory Equipment, any guy wires, the equipment Building, security fence, and applicable screening.

(4) *Design Regulations*.

(a) *Anti-Climbing Device*. A Tower-Based WCF shall be equipped with an anti-climbing device, as approved by the manufacturer.

(b) *Minimum Setbacks*. The minimum distance between the base of a Tower-Based WCF and any adjoining property line or Street ROW line shall be equal to one hundred (100) percent of the Height of the Tower-Based WCF. The underlying Lot shall be large enough to accommodate related equipment, stormwater runoff mechanisms, and all other features typically found within the immediate area of a telecommunications tower.

(c) *Surrounding Environs*.

i. The WCF Applicant shall ensure that the existing vegetation, trees, and shrubs located within proximity to the WCF Structure shall be preserved.

(d) *Fence/Screen*.

i. A security fence with a maximum Height of eight (8) feet, with openings no greater than four (4) inches, shall completely surround any Tower-Based WCF, as well as guy wires or any Building housing Accessory Equipment.

ii. The WCF Applicant shall comply with the screening requirements as specified Section 4.03 of this Ordinance.

(e) *Accessory Equipment*.

i. Ground-mounted Accessory Equipment associated or connected with a Tower-Based WCF shall not be located within fifty (50) feet of a Lot in a residential use.

ii Accessory Equipment associated with a Tower-Based WCF shall be placed underground or screened from public view. All ground-mounted Accessory Equipment, utility Buildings, and accessory structures shall be architecturally designed to be concealed from public view to the maximum extent possible and be compatible with the architecture of surrounding Buildings, structures, or landscape.

iii Either one single-story wireless communications equipment Building not exceeding five hundred (500) square feet in area or its equivalent may be permitted for each unrelated company sharing Antenna space on the Tower-Based WCF.

(5) *Additional Antennas*. As a condition of approval for all Tower-Based WCFs, the WCF Applicant shall provide the Zoning Hearing Board with a written commitment that it shall allow other service providers to Collocate WCFs on the Tower-Based WCF where technically and economically feasible. To

the extent permissible under state and federal law, the Owner of a Tower-Based WCF shall not install any additional WCFs without complying with the applicable requirements of this Article.

(6) *FCC License*. Each Person that owns or operates a Tower-Based WCF shall submit a copy of its current FCC license, including the name, address, and emergency telephone number for the operator of the facility.

(7) *Signs*. All Tower-Based WCFs shall post a Sign in a readily visible location identifying the name and phone number of a party to contact in the event of an emergency. The only other signage permitted on the WCF shall be those required by the FCC or any other federal or state agency.

(8) *Lighting*. No Tower-Based WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. The WCF Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the Township Secretary.

(9) *Storage*. The storage of unused equipment, materials, or supplies is prohibited on any Tower-Based WCF site.

(10) *Repair of Non-Conforming Tower-Based WCF*. Non-conforming Tower-Based WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location but shall otherwise comply with the terms and conditions of this Article. The Collocation of Antennas is permitted on non-conforming structures.

(11) *Insurance*. Each Person that owns or operates a Tower-Based WCF shall provide the Township Zoning Officer with a certificate of insurance evidencing general liability coverage in the minimum amount of $5,000,000 per occurrence and property damage coverage in the minimum amount of $5,000,000 per occurrence covering the Tower-Based WCF.

(I) *Industrial Uses*.

Uses that involve the assembly, production, storing, transferring and disposal of goods or products, and which may also include associated facilities such as offices, maintenance facilities, and fuel pumps and both indoor and outdoor activities and storage of goods. Such uses have the potential for creating significant external effects, including noise, odor, and/or other noxious by-products and may involve frequent commercial vehicle access and outdoor storage of materials or products. The Zoning Officer may request additional information to ensure proper evaluation of applications related to this category of uses. Such information may include ventilation plans, materials characteristics, drainage plans, waste disposal plans, and chemical disposition plans. All such uses shall adhere to the Outdoor Storage Yard provisions specified below. The following use regulations shall apply to all Industrial Uses.

In addition to the supplemental use regulations stipulated for each specific industrial use listed in this section, the Applicant shall also provide a detailed written description of the proposed use in each of the following topics:

- The nature of on-site processing operations, the materials used in the process, the products produced, and the generation and methods of disposal for any wastes and/or by-products. In addition, the Applicant shall furnish evidence that the storage and disposal of materials shall be accomplished in a manner that complies with all applicable state and federal regulations.

- The general scale of the operation in terms of its specific floor space requirements for each step of the industrial process, the total number of employees on each shift, and an overall needed site size.

- Identify any environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, stormwater, solid waste, etc.) and specific measures employed to mitigate or eliminate negative impacts. The Applicant shall furnish expert evidence that the impacts generated by the proposed use fall within acceptable levels as regulated by applicable laws and ordinances, including but not limited to those administered and enforced by the U.S. Environmental Protection Agency and PA DEP.

The Zoning Officer may request additional information to ensure proper evaluation of such application. Such information may include ventilation plans, materials characteristics, drainage plans, waste disposal plans, and chemical disposition plans.

1. *Automotive Dismantler and Recycler*.

Any establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles, or motor parts, or both. The following performance standards shall apply.

a. Minimum Lot Area shall be ten (10) acres.

b. The outdoor area devoted to the storage of Junk shall be completely enclosed by an eight (8) foot high opaque fence which shall be set back at least fifty (50) feet from all property lines and one hundred (100) feet from residentially zoned or existing residential properties.

c. The setback area between the fence and the Lot lines shall be kept free of weeds and all scrub growth.

d. All completely enclosed Buildings used to store Junk shall be set back at least fifty (50) feet from all property lines.

e. No material may be stored or stacked so that it is visible from adjoining properties and roads.

f. The operation shall be licensed pursuant to Title 67, PA Code, Ordinance 451, Control of Junkyards and Automotive Dismantlers and Recyclers and obtain and maintain all applicable permits.

g. All junk shall be stored or arranged to permit access to firefighting equipment and to prevent the accumulation of water, and with no Junk piled to a Height greater than eight (8) feet.

h. No oil, grease, tires, gasoline, or other similar material shall be burned at any time.

i. Any Automotive Dismantler and Recycler or Junkyard shall be maintained in such a manner as to cause no public or private nuisance, not to cause any offensive or noxious sounds or odors, nor to the breeding or harboring of rats, flies, mosquitoes, or other vectors.

j. No Automotive Dismantler and Recycler or Junkyard shall be located on land with a slope in excess of five (5) percent.

k. All junked vehicles shall be emptied of fuel, oil, and other liquids and batteries.

2. *Brewery, Distillery, Winery*.

A facility for the production, packaging and sampling of alcoholic beverages – including beer, wine, cider, mead and distilled liquors for retail or wholesale distribution, for sale or consumption on- or off-premises, and which produces 100,000 gallons or more of such beverages per year. The Brewery, Distillery, Winery shall be licensed by the Pennsylvania Liquor Control Board and any successor agency of the Commonwealth. The additional supplemental regulation apply:

a. *Minimum Lot Area*. Five (5) acres.

b. A Brewery, Distillery, Winery shall have at least one (1) loading berth, with an additional berth when the GFA exceeds 150,000 square feet.

c. Identify the nature of the on-site operations, the materials used in the process, the products produced, and the generation and methods for disposal of any wastes and/or by-products. In addition, the Applicant shall furnish evidence that the storage and disposal of materials shall be accomplished in a manner that complies with state and federal regulations.

d. Identify any environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, stormwater, solid waste, etc.) and specific measures employed to mitigate or eliminate negative impacts. The Applicant shall provide evidence that the impacts generated by the proposed use fall within acceptable levels regulated by applicable laws and ordinances.

e. *Traffic Impact Study*. A traffic impact study prepared by a Registered Design Professional pursuant to the requirements specified under the Middlesex Township Subdivision and Land Development Ordinance shall be reviewed and approved by the Township Engineer.

3. *Junkyards*.

Any outdoor establishment, place of business, or activity which is maintained, used or operated for storing, keeping, buying or selling Junk; for the maintenance or operation of a garbage dump, sanitary landfill or scrap metal processor, or for the storage of ten or more junked vehicles. The performance standards specified under Subparagraph (I)3. *Automotive Dismantler and Recycler* above shall apply.

4. *Meat Processing Establishment*.

All premises where animals or poultry are slaughtered or otherwise prepared for food purposes, meat and poultry canneries, sausage making, smoking or curing operations and similar places except those places occupied and used for such purposes in the preparation of food for consumption in their own households. It shall not include retail stores if the only processing operation performed in such retail stores is that of preparing for sale the meat and poultry products which have been inspected under the provisions of the Pennsylvania Meat and Poultry Hygiene Law of 1968, except that the Pennsylvania Secretary of Agriculture or duly appointed representative may require inspection in retail establishments when he determines that the character or quantity of processing is such that inspection is necessary to protect the public health. The term Retail refers to sale to the ultimate consumer. The following supplemental use regulations shall apply:

a. All Meat Processing Establishments shall be licensed and operated pursuant to the Pennsylvania Meat and Poultry Hygiene Law of 1968.

b. *Minimum Lot Area*. Five (5) acres.

c. *Access*. Vehicle access shall be provided pursuant to the requirements specified in the Middlesex Township Subdivision and Land Development Ordinance. The subject site shall have access to a Collector or Arterial Street.

d. All aspects of the slaughtering, processing, rendering, and packaging operation, excepting the unloading and holding of live animals, shall be conducted within a completely enclosed Building.

e. Holding pens and runways shall be designed according to the recommended standards specified in the International Journal for the Study of Animal Problems' publication titled, "Designs and Specifications for Livestock Handling Equipment in Slaughter Plants" Grandin, T. (1980).

f. The Applicant shall furnish a working plan for the recovery of escaped animals.

g. The unloading of live animals from trucks into holding pens and their movement into the plant shall be continuously supervised by a qualified operator, whose responsibility it shall be to immediately identify and appropriately dispatch any obviously ill or injured animals.

h. The unloading of live animals and their movement into the plant shall be conducted in an orderly and calm manner to minimize noise levels.

i. The loading and unloading of trucks shall be restricted to the hours between 8 AM and 6 PM prevailing time.

j. No exterior animal holding pens and/or areas devoted to loading/unloading of animals shall be located within two hundred (200) feet of any property line nor five hundred (500) feet of any land within residential and Mixed-Use zoning districts specified in Table 2.01 of this Ordinance.

k. All animal holding pens and/or areas used for the loading/unloading of animals shall be pursuant to the requirements specified under Section 4.03 of this Ordinance.

l. Sewer and water lines shall be designed and installed to minimize the potential for leakage and contamination.

m. Wastewater shall be kept completely covered at all times to reduce the potential for release of odors. In no event shall wastewater be disposed in any other manner inconsistent with the facility's DEP-issued NPDES permit.

n. All unusable animal by-products shall be stored indoors in leak – and vector-proof containers. In the case of slaughtering or processing operations which do not do their own Rendering, the Applicant shall provide evidence of a written contract with a rendering operation for the daily disposal of such waste products. In no case shall any waste products remain on the site for more than twenty-four (24) hours.

o. The Applicant shall demonstrate written compliance with, and continue to comply with, all applicable local, State and Federal standard and regulations.

p. The use shall provide stacking lanes and on-site loading/unloading areas in the rear yard, so that trucks waiting to be loaded/unloaded shall not back up onto public roads. No parking or loading/unloading shall be permitted on or along any public road.

q. *Traffic Impact Study*. The Applicant shall furnish a traffic impact study prepared by a Registered Design Professional in accordance with the requirements specified in the Middlesex Township Subdivision and Land Development Ordinance and reviewed and approved by the Township Engineer.

5. *Medical Marijuana Grower / Processor Facility*.

A Person, including a natural Person, corporation, partnership, association, trustor other entity, or any combination thereof, which holds a permit from the Pennsylvania Department of Health (DOH) to grow and process medical marijuana pursuant to Pennsylvania's Medical Marijuana Act, Act of April 17, 2016, P.L. 84, No. 16.

6. *Mining and Mineral Extraction*.

Mining and Mineral Extraction and the excavation, extraction, or removal of any Mineral Resource from the land or ground for any purpose are subject the following performance standards:

a. *General*. A Person engaged in, or proposing to engage in, the business of mining and mineral extraction shall be properly licensed by the Pennsylvania Department of Environmental Protection (DEP) to engage in such business and each site shall be permitted by the applicable state agency. In addition, the mining and mineral extraction operation shall:

(1) Not injure or detract from the lawful existing or permitted use of neighboring properties,

(2) Not adversely affect any public or private water supply source,

(3) Not adversely affect the logical, efficient and economical extensions of public services, facilities and utilities throughout the Township,

(4) Not result in the land area subject to quarrying being placed in a condition which shall prevent the use of that land for economically and ecologically productive uses upon completion of the quarry operation,

(5) Demonstrate compliance with all applicable State regulations at all times, and

(6) Not create any significant damage to the health, safety, welfare, environment of the Township and its residents and property owners.

b. *Site Plan Requirements*. As a part of each application the Applicant shall furnish an accurately surveyed site plan on a scale no less than 1" = 200', showing the location of the tract or tracts of land to be affected by the operation. The surveyed site plan shall be certified by a Registered Design Professional with assistance from experts in related fields and shall include the following:

(1) The boundaries of the proposed land affected, together with the drainage area above and below the area.

(2) The location and names of all streams, roads, railroads, and utility lines on or immediately adjacent to the area.

(3) The location of all Buildings within 1,000 feet of the property line and the names and addresses of the owners and present occupants.

(4) The purpose for which each Building is used.

(5) The name of the Owner of the affected area and the names of adjacent landowners, the municipality, and the county.

c. *Minimum Lot Area*. One hundred (100) acres.

d. *Fencing*. A fence measuring at least eight (8) feet in Height shall enclose the area of actual quarrying. If a chain link fence is used, then said fence shall include a vegetative screen that is provided along the outside of the fence, away from the quarry.

e. *Setbacks*. The following are the required minimum setbacks imposed upon specific features of the quarry and other extractive-related uses from adjoining and/or nearby uses.

(1) *Existing Residence*. 1,000 ft.

(2) *Existing Nonresidential Building*. Three hundred (300) ft.

(3) *Residential and Mixed-Use Zones*. 1,000 ft.

(4) *Adjoining Roads*. One hundred (100) ft.

(5) *Public/ Nonprofit Park*. Three hundred (300) ft.

(6) *Cemetery or Stream Bank*. One hundred (100) ft.

(7) *Adjoining Property*. One hundred (100) ft.

f. *Hours of Operation*. All mining and mineral extraction operations located shall be limited to the hours of 6:00 AM and 7:00 PM prevailing time, Monday – Saturday.

g. *Access*. Vehicle access shall be provided pursuant to the requirements of the Middlesex Township Subdivision and Land Development Ordinance. The subject site shall have access to an Arterial or Collector Street.

h. *Traffic Impact Study*. The Applicant shall furnish a traffic impact study prepared by a Registered Design Professional in accordance with the requirements of the Middlesex Township Subdivision and Land Development Ordinance and reviewed and approved by the Township Engineer.

i. *Reclamation*. The Applicant shall demonstrate compliance with Section 7.(c) of the Pennsylvania's Noncoal Surface Mining Conservation and Reclamation Act, Dec. 19, P.L. 1093, No. 219, as may be amended. The Applicant shall provide a detailed description of the proposed use of the site, once reclamation has been completed, including a description of any zoning and/or subdivision approvals or remedies that would be necessary to accommodate the proposed use. Finally, the Applicant shall provide a written notification to the Township within thirty (30) days, whenever a change in the reclamation plan is proposed to the PA DEP.

j. *Screening*. Screening shall be provided pursuant to the requirements specified under Section 4.03 of this Ordinance.

k. *Operations Progress Report*. Within ninety (90) days after commencement of mining operations, and each year thereafter, the operator shall file an operations progress report with the Zoning Officer setting forth all the following:

(1) The name or number of the operation.

(2) The location of the operation with reference to the nearest public road.

(3) A description of the tract or tracts, including a site plan showing the location of all improvements, stockpile, quarry pits, etc.

(4) The name and address of the landowner or his duly authorized representative.

(5) An annual report of the type and quantity of mineral produced.

(6) The current status of the reclamation work performed in pursuance of the approved reclamation plan.

(7) A maintenance report for the site that verifies that all required fencing, berming, and screening has been specifically inspected for needed repairs and/or maintenance and that such needed repairs and/or maintenance has been performed.

(8) Verification that the proposed use continues to comply with all applicable state regulations. The operation shall furnish copies of any approved permits and/or any notices of violation issued by the PA DEP.

l. The Applicant shall provide a letter indicating that the public or private source shall provide the water needed. The Applicant shall submit an analysis of raw water needs from either private or public sources, indicating the quantity of water required. If the water required exceeds 100,000 gallons per day, a permit is needed from the Susquehanna River Basin Commission. In addition, if the facility is to rely upon non-public sources of water, a permit is required. A water feasibility study shall be provided to enable the Township to evaluate the impact of the proposed construction on the groundwater supply and on existing wells. The purpose of the study shall be to determine if there is an adequate supply of water for the proposed construction and to estimate the impact of the new construction on existing wells in the vicinity. The water feasibility shall be reviewed by the Township Engineer. A water system which does not provide an adequate supply of water for the proposed construction, considering both quantity and quality, or does not provide for adequate groundwater recharge, considering the water withdrawn by the proposed construction, shall not be approved by the municipality. A water feasibility study shall include the following information:

(1) Calculations of the projected water needs.

(2) A geologic map of the area with a radius of at least one mile from the site.

(3) The location of all existing and proposed wells within 1,000 feet of the site, with a notation of the capacity of all high-yield wells.

(4) The location of all streams within 1,000 feet of the site and all known point sources of pollution based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined.

(5) A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table.

(6) A statement of the qualifications and the signature(s) of the Person(s) preparing the study.

7. *Outdoor Storage Yard*.

The use of land for the principal purpose of the outdoor storage and retrieval of equipment, vessels, construction supplies, or other related items or goods. The following supplemental regulations shall apply:

a. The Outdoor Storage Yard shall be secured and screened from view of the front Lot line. Screening shall be required pursuant to Section 4.03 Buffering, Landscaping, and Screening of this Ordinance.

b. Outdoor storage yard areas shall not be used for the service, repair, maintenance activities, including washing/cleaning, or to conduct similar activities of any of the items stored at the outdoor storage yard.

b. Outdoor storage yards shall not be occupied or used for living or sleeping purposes.

c. The conduct of sales or rentals of any kind, and the conduct of any other commercial activity is prohibited.

d. Storage on a site shall meet the following requirements:

(1) Storage areas shall occur in a designated space, approved as part of the overall site plan.

(2) Boats stored on the site shall be placed upon wheeled trailers and have the appropriate license; no dry stacking of boats shall be permitted on-site.

(3) Stacking of stored materials shall not exceed a height of twenty-five (25) feet.

(4) No loose materials such as sand, lumber, cardboard boxes and/or similar items which may be scattered or blown about the premises by normal weather conditions shall be allowed. All equipment, building supplies and construction materials shall be tied down and secured.

8. *Planned Center, Industrial*.

An industrial park development on a tract of land, normally over two (2) acres, that is designed, planned, constructed, and managed/operated on an integrated and coordinated basis. They would typically include provisions for on-site parking for employees and/or customers, traffic circulation, transportation facilities (rail and highway), utility needs, Open Space, landscaping, signage and other aesthetic considerations. The following supplemental use regulations shall apply:

a. *Access*. Vehicle access shall be provided pursuant to the requirements specified in the Middlesex Township Subdivision and Land Development Ordinance. The subject site shall have access to an Arterial or Collector Street.

b. Site illumination will be required in accordance with Section 4.10 of this Ordinance.

c. *Traffic Impact Study*. A traffic impact study prepared by a Registered Design Professional pursuant to the requirements specified under the Middlesex Township Subdivision and Land Development Ordinance shall be reviewed and approved by the Township Engineer.

9 *Solid Waste Disposal Facility*.

A facility using land for disposing or processing of municipal waste. Waste means a heavy industrial use involving the sorting, storage and disposal of goods and by-products. Facilities may have disposal plans, and chemical disposition plans. The facility includes land affected during the lifetime of operations, including, but not limited to, areas where disposal or processing activities actually occur, support facilities, borrow areas, offices, equipment sheds, air and water pollution control and treatment systems, access roads, associated onsite or contiguous collection, transportation and storage facilities, closure and post closure care and maintenance activities and other activities in which the natural land surface has been disturbed as a result of or incidental to operation of the facility. The following performance standards shall apply:

a. Such facility shall be established and operated in accordance with the applicable requirements of all State and Federal codes, acts, rules and regulations, as amended and all State and Federal regulating bodies and agencies. The Applicant

shall demonstrate compliance through a written statement and continue to comply with all applicable State and Federal standards and regulation.

b. A minimum Lot area of twenty-five (25) acres is required.

c. No facility shall be located within five hundred (500) feet of any Street or property line and shall be screened using pursuant to Section 4.03 of this Ordinance.

d. The Lot shall have direct access to an Arterial roadway pursuant to the requirements of the Middlesex Township Subdivision and Land Development Ordinance or a road having adequate structural and geometrical characteristics as determined by the Township Engineer to handle the anticipated future Truck traffic.

e. All uses shall provide adequate lanes into the facility, so that vehicles waiting to be weighed shall not back up onto public roads.

f. Access to the site shall be limited to those posted times when an attendant is on duty. In order to protect against the indiscriminate and unauthorized dumping, all areas of the site shall be protected by locked barricades, fences, gates or other positive means designed to deny access to the area at unauthorized times or locations.

g. Litter control shall be exercised to prevent the scattering of wind-borne debris, and a working plan for the cleanup of litter shall be submitted to the Township and posted on the property.

h. The unloading, processing, transfer, and deposition of solid waste shall be continuously supervised by a qualified facility operator.

i. Any processing and/or treatment of waste (including but not limited to incineration, composting, steaming, shredding, compaction, material separation, refuse derived field, pyrolysis, etc.) shall be conducted within a wholly enclosed Building.

j. Any external area used for the unloading, transfer, or deposition of waste shall be completely screened from view at the property line using screening pursuant to Section 4.03 of this Ordinance.

k. The use shall be screened from all adjoining properties using screening pursuant to Section 4.03 of this Ordinance.

l. A minimum one hundred (100) foot wide buffer shall be located along all property lines. No structures, storage, parking, or any other related activity or operation shall be permitted within this landscape strip. Any fences or other screening erected on the site, shall not be located within this landscape strip.

m. Any waste that is to be recycled shall be stored in leak - and vector-proof containers. Such containers shall be designed to prevent their being carried by wind or water. These containers shall be stored within a completely enclosed Building.

n. All storage of waste shall be indoors in a manner that is leak and vector proof. During normal operation, no more waste shall be stored on the property than is needed to keep the facility in constant operation; but, in no event for more than twenty-four (24) hours.

o. A contingency plan for the disposal of waste during a facility shutdown, shall be submitted to the Township.

p. Leachate from the waste shall be disposed of in a manner in compliance with any applicable State and Federal laws or regulations. If leachate is to be discharged to a municipal sewage facility, pre-treatment may be required and appropriate permits shall be obtained from the applicable agencies and authorities. In no event shall leachate be disposed of in any manner inconsistent with the Department of Environmental Protection's regulations.

q. In addition to the applicable zoning district's setbacks, all Buildings or Structures shall be set back at least one and one-half (1.5) times of the Building or Structure's Height.

r. The Applicant shall submit an analysis of raw water from either private or public sources, indicating the quantity of water required. The Applicant shall provide a letter indicating that the public or private source shall provide the water needed. In addition, if the facility is to rely upon non-public sources of water, appropriate permits shall be required (i.e., Township, PA DEP, and Susquehanna River Basin Commission). A water feasibility study shall be provided to enable the township to evaluate the impact of the proposed construction on the groundwater supply and on existing wells. The purpose of the study shall be to determine if there is an adequate supply of water for the proposed construction and to estimate the impact of the new construction on existing wells in the vicinity. The water feasibility shall be reviewed by the township engineer.

A water system which does not provide an adequate supply of water for the proposed construction, considering both quantity and quality, or does not provide for adequate groundwater recharge, considering the water withdrawn by the proposed construction, shall not be approved by the Township. A water feasibility study shall include the following information:

(1) Calculations of the projected water needs.

(2) A geologic map of the area with a radius of at least one mile from the site.

(3) The location of all existing and proposed wells within 1,000 feet of the site, with a notation of the capacity of all high-yield wells.

(4) The location of all existing on-Lot sewage disposal systems within 1,000 feet of the site.

(5) The location of all streams within 1,000 feet of the site and all known point sources of pollution.

(6) Based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined.

(7) A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table.

(8) A statement of the qualifications and the signature(s) of the Person(s) preparing the study.

s. *Traffic Impact Study*. The Applicant shall furnish a traffic impact study prepared by a Registered Design Professional in accordance with the requirements of the Middlesex Township Subdivision and Land Development Ordinance and reviewed and approved by the Township Engineer.

t. The Applicant shall furnish expert testimony regarding emergency preparedness measures provided and/or otherwise available to respond to potential hazards regarding the spill of waste materials during transport, and potential hazards regarding firefighting of waste materials upon the site.

u. No principal waste handling facility shall be located within one (1) mile of another, as measured in a straight line between closest property lines.

v. *Maximum Building Height*. Thirty-five (35) feet.

w. *Maximum Height of Fill*. Fifty (50) feet.

x. A plan for the restoration of all borrow areas shall be submitted to the Township for approval.

y. The hours of operation for this use shall be limited to 6:00 AM to 7:00 PM, prevailing time, Monday – Saturday.

10. *Truck Terminal*.

A facility to accommodate the fueling, routine maintenance and storage of trucks and other motorized equipment and trailers and that may provide warehousing, distribution, outdoor storage, and transfer facilities.. The following supplemental use regulations shall apply:

a. The site shall have frontage on and direct vehicular access to a Principal Arterial Street.

b. No point on the site boundary shall be located within three hundred (300) feet of any property line of a property containing a residential dwelling.

c. Ingress, egress and internal traffic circulation shall be designed to ensure safety and minimize congestion.

d. All materials and equipment shall be stored within a completely enclosed Building, as defined herein.

e. No repair of vehicles shall be permitted outside a completely enclosed Building, as defined herein.

11. *Truck or Truck Trailer Parking*.

A tract of land, or portion thereof, used by Commercial Trucks for the purpose of dropping or picking up loaded and/or unloaded trailers, including the incidental short-term or daily storage of Trucks and storage of loaded and/or unloaded Trailers, for transfer to other points or jurisdictions. The use may include an accessory guardhouse or similar type structure to allow for Trailers to be checked in and out. The use does not include the breakdown or aggregation into smaller or larger loads. Commonly referred to as a "Drop Lot." The following supplemental use regulations shall apply:

a. The Use shall be located on a parcel of no less than ten (10) acres in size.

b. The Use Shall have direct access to a Principal Arterial Street and ingress, egress and internal traffic circulation shall be designed to ensure safety and minimize congestion.

c. No point on the site boundary shall be located within three hundred (300) feet of any residential zoning district or residential property line.

d. The applicant shall furnish a traffic study prepared in accordance with the requirements specified in the Middlesex Township Subdivision and Land Development Ordinance.

e. The entire perimeter of the facility shall be lighted according to the lighting standards specified under Section 4.10 of this Ordinance.

f. The Use shall be secured via a minimum twelve (12) foot high chain link fence and have a secure gated access that is accessible only by authorized users of the parking facility. Authorized access shall include Middlesex Township officials, including designated zoning and code enforcement, police, fire, and EMS personnel.

g. The owner/operator of the Use shall have a hazardous material spill plan approved by the Cumberland County Department of Public Safety and a designated safety officer responsible for monitoring and reporting any suspected or known hazardous materials spills occurring from the use of the parking facility.

h. The use shall not be used for overnight sleeping in Trucks or as a Truck Stop Rest area.

i. Other than storage within Trailers using the parking facility, the site shall not have any Buildings or Structures used for the storage of materials.

j. Overnight Truck idling is prohibited within the Township limits. No person shall allow the primary propulsion engine of a motor vehicle to idle for more than ten (10) consecutive minutes when the motor vehicle is not in motion. Truck stop facilities shall provide signage indicating overnight idling is prohibited. Such signage must be located at the entrance of overnight parking Lots in a visible manner to Truck drivers.

12. *Warehouse and Distribution*.

A use involving large-scale indoor storage of goods, packaging of goods, and distribution typically between production and the market and may include a small ancillary retail facility. Such uses also include substantial commercial vehicle access, storage, and intermodal exchanges and are inclusive of the following subcategory use types. The following supplemental regulations shall apply:

a. *Minimum Lot Area and Lot Frontage*. Notwithstanding the underlying zoning district bulk and area dimensional requirements, the subject property shall have a minimum Lot area of fifty (50) acres and a minimum of one hundred twenty-five (125) feet of frontage on a Principal Arterial Street.

b. *Location*: Any Warehouse/Distribution uses constructed after the effective enactment date of this Ordinance shall be located within 1,320 feet (¼ mile) of a grade separated highway interchange (as measured from the nearest highway ramp terminal to any contiguous portion of the subject property).

c. *Required Setback*. Parking, staging, and loading/unloading areas, and Buildings shall be located no closer than five hundred (500) feet from a residential use or district and/or property containing a school, daycare facility, park, playground, library, hospital, or nursing or retirement home, except where such parking, staging, and loading/unloading areas, and Buildings are separated from such other uses by an Interstate Highway.

d. *Maximum Lot Coverage*. When served by public sewer and public water and any portion of the subject property is located less than 1,320 feet from an Interstate Highway interchange (as measured from the nearest highway ramp terminal to any contiguous portion of the property), a maximum Lot coverage of fifty (50) percent and a maximum Impervious Coverage of sixty-five (65) percent shall be permitted.

e. *Buffer Screening*.

(1) A two hundred (200) foot deep buffer strip shall be provided along any Lot line of the subject property that adjoins a residential use or district, except where the subject property is separated from such residential us or district by an Interstate Highway. A seventy-five (75) foot deep buffer strip shall be provided along any adjoining Right-of-Way of an Arterial Street.

(2). Screen buffers in accordance with the Middlesex Township Subdivision and Land Development Ordinance shall be provided in all buffer strips. Where a seventy-five (75) foot or two hundred (200) foot deep buffer strip is required under Subsection (5)ii. above, an earthen berm shall have a minimum height of fifteen (15) feet and a maximum slope of three (3) feet of run to one (1) foot of rise (3:1 slope). The screen buffers required under the Subdivision and Land Development Ordinance shall be placed on the top of the berm. Stormwater management facilities shall be permitted to be located within the buffer strips.

f. *Maximum Building Height*. The maximum building height shall be permitted to increase by one (1) foot for every two (2) feet by which the Building exceeds applicable minimum Yard requirements up to a maximum of building height of fifty (50) feet.

g. Any exterior public address system shall be designed and operated so that the audible levels of any messages conveyed over the system will not exceed the amount of noise levels of the use, as measured at each Lot lines.

h. Electric hookups shall be installed to reduce idling of main auxiliary engines when Trucks are in a stationary position.

i. *Access, Parking, and Loading*.

(1) The use shall have direct access to a Principal Arterial Street as defined in the Middlesex Township Comprehensive Plan.

(2) A minimum of five (5) percent of the required total Tractor and Trailer parking spaces shall be reserved for outbound trucks which are required to layover or rest due to federal hours of service regulations. Such spaces must be made available to tractor-trailers during and/or after the facility's operating hours as necessary.

(3) All trucks awaiting access to a loading/unloading dock/doorway shall park in the designated tractor trailer parking spaces unless all such spaces are already occupied.

(4) The site shall be provided with stacking lanes and on-site loading/unloading facilities so that Trucks or Trailers or other vehicles waiting to park, or be loaded/unloaded, will not back up onto public Streets.

(5) Each Warehouse/Distribution use shall provide off-street loading facilities which meet the minimum requirements of Section 4.15 of this Ordinance and are sufficient to accommodate the maximum demand generated by the use. Each loading space and the needed maneuvering room shall be located entirely on the Lot being served and be located outside of required buffer areas and Street Rights-of-Way. Each loading space shall have sufficient maneuvering room to avoid conflicts with parking and traffic movements within and outside of the Lot. No facility shall be designed or used in such a manner that it creates a safety hazard, public nuisance or an impediment to traffic off the Lot.

(6) Where gates, guard shacks or checkpoints are proposed at the entrance(s) to the facility, adequate queuing space shall be provided within the property boundaries to prevent stacking of vehicles on or along public Streets. Any entry gates into the loading dock/Truck court area shall be positioned after a minimum of one hundred forty (140) feet of total available stacking depth inside the property line. The stacking distance shall be increased by seventy (70) feet for every twenty (20) loading docks beyond fifty (50) docks. Queuing and circling of vehicles on public Streets immediately pre- or post-entry to a Truck Terminal is strictly prohibited unless queuing occurs in a deceleration lane or right turn lane exclusively serving the facility.

j. *Outdoor Storage*.

(1) The outdoor storage of unlicensed and/or uninspected Trucks or Trailers is prohibited.

(2) No outdoor storage of trash, garbage, refuse, explosive or flammable materials, hazardous substances, animals, animal carcasses or skins or similar items shall be permitted.

k. The use shall include an appropriate system to contain and properly dispose of any fuel, grease, oils, or similar pollutants that may spill or leak where such substances are stored or where vehicles are fueled, repaired or maintained.

l. *Signage and Traffic Patterns*.

(1) Applicants shall submit to the Township Engineer, and obtain approval of, all turning templates to verify Truck turning movements at entrance and exit driveways and Street intersections adjacent to a Warehouse/Distribution use prior to conditional use approval.

(2) Anti-idling signs indicating a three (3) minute diesel Truck engine idling restriction shall be posted at Warehouse/Distribution uses along entrances to the site and in the dock areas and shall be strictly enforced by the facility operator.

(3) The applicant shall establish and submit with its conditional use application a Truck routing plan to and from the state highway system. The plan shall describe proposed Truck routing to and from the Warehouse/Distribution facility to designated Truck routes that avoids passing sensitive receptors to the greatest extent possible. The plan shall include measures, such as signage and pavement markings, queuing analysis and enforcement, for preventing Truck queuing, circling, stopping, and parking on public Streets. The facility operator shall be responsible for enforcement of the plan. The Board of Supervisors shall have discretion to determine if changes to the plan are necessary including any additional measures to alleviate Truck routing and parking issues that may arise during the life of the facility.

(4) Signs shall be installed at all Truck exit driveways directing Truck drivers to the Truck route as indicated in the Truck routing plan and state highway system.

(5) Signs and drive aisle pavement markings shall clearly identify the on-site circulation pattern to minimize unnecessary on-site vehicular travel.

(6) Facility operators shall post signs in prominent locations inside and outside of the Building indicating that off-site parking for any employee, Truck, or other operation related vehicle is strictly prohibited. The Township may require the facility operator to post signs on surface or residential Streets indicating that off-site Truck parking is prohibited by this Ordinance and as specified in the required Truck routing plan.

m. *Environmental and Community Impact Analysis*. The applicant shall provide an environmental and community impact analysis. The environmental and community impact analysis shall include:

(1) A narrative description of the nature of the on-site activities and operations, including the market area served by the facility, the hours of operation of the facility, the total number of employees on each shift, the times, frequencies and types of vehicle trips generated, the types of materials stored and the duration period of storage of materials.

(2) A site plan of the property indicating the location of proposed improvements, flood plains, wetlands, waters of the Commonwealth, and cultural and historic resources on the property and within five (500) hundred feet of the boundaries of the property.

(3) Evidence that the disposal of materials will be accomplished in a manner

that complies with state and federal regulations.

(4) An evaluation of the potential impacts of the proposed use, both positive and negative, upon:

(a) Emergency services and fire protection;

(b) Water supply;

(c) Sewage disposal;

(d) Solid waste disposal;

(e) School facilities and school district budget;

(f) Municipal revenues and expenses

(5) Any environmental impacts that are likely to be generated (e.g., odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, stormwater, solid waste, etc.) and specific measures employed to mitigate or eliminate any negative impacts including the performance standards specified in Section 4.19 of this Ordinance. The applicant shall further furnish evidence that the impacts generated by the proposed use fall within acceptable levels, as regulated by applicable laws and ordinances.

n *Noise Control*.

(1) Audible sound from a facility that includes a refrigerated area shall not exceed seventy-five (75) dB(A) and seventy-five (75) dB(C), [L10, meaning not to be exceeded by more than ten (10) percent of the time], as measured at the facility property line. Any new broadband sound source is limited to raising noise levels no more than 5 dB(A) over the ambient baseline sound level. The ambient baseline sound level is defined as the sound level that is exceeded ninety (90) percent of the time, the L90 level. "Pure Tones" as defined here as an octave band, may be no greater than three (3) dB(A) over the two (2) adjacent octave bands. All these readings are measured at the facility property line. That is, if tonal noises are present, higher levels of broadband background noise are needed to effectively mask the tone(s). In this respect, a penalty for pure tones of five (5) dB(A) is assessed. Therefore, if a facility meets a sound pressure level standard of seventy-five (75) dB(A), but produces a strong whistling, five (5) dB(A) are subtracted from the standard. This forces the facility to meet a standard of seventy (70) dB(A). Methods for measuring and reporting acoustic emissions from refrigeration equipment shall be equal to or exceed the minimum standards for precision described by the American National Standards Institute for sound measurement.

(2) When a facility is developed that contains a refrigerated area, if at any time after construction the refrigeration equipment is claimed by or through Middlesex Township to exceed the audible sound standards of Subparagraph (14)i. above, a noise study shall be performed by the property and/or facility owner within thirty (30) days of the date of written notice by Middlesex Township to perform the noise study. The

noise study shall be performed by an independent noise study expert and paid for by the property and/or facility owner. The study shall address and elevate the requirements specified in Subparagraph (14)i. above. The completed noise study must be submitted in writing to Middlesex Township for review no later than thirty (30) days after the date of the aforementioned written notice issued by Middlesex Township. If warranted based on study results, remedial action shall be taken by the property and/or facility owner to ensure compliance with the noise standards in this Subsection within thirty (30) days of written notification of the need for such remedial action by Middlesex Township, unless extended by the Township Board of Supervisors for good cause shown before the expiration of the thirty (30) day period.

(3) The requirements of this Subsection (14) shall be a condition for approval of any land development plan proposing a facility in Middlesex Township, shall be indicated as a note on any approved land development plan as being agreed to by the developer and property owner, and shall be a covenant running with the land on which the facility is located and binding upon the property owner, his, her, or its heirs, representatives successors and assigns.

13. *Yard Waste Composting Facility*.

A facility which yard waste and natural wood waste is received and processed to produce compost for off-site Use. Retail and wholesale sales of bulk compost, mulch, and earth products shall be permitted as an Accessory Use to a yard waste composting facility. The term does not include composting by a single-family Lot Owner for personal Use. The following supplemental use regulations shall apply:

a. *Minimum Lot size*: Five (5) acres.

b. *Setbacks*.

(1) The minimum composting activity setback shall be one hundred (100) feet from any property line abutting a non-residential Use or zoning district.

(2) The minimum composting activity setback two hundred (200) feet from any property line abutting a residential Use or zoning district.

c. *Operations*.

(1) *Compliance*. A Yard Waste Composting Facility shall always be in full compliance with the statutes of the Commonwealth of Pennsylvania and the rules and regulations of the Department of Environmental Protection (DEP) and the provisions of this Article. In the event that any of these provisions are in conflict, then the requirements of the Department of Environmental Protection shall apply.

(2) *Hazardous Waste Disposal*. Hazardous waste as included on the list of hazardous waste as maintained by DEP shall not be disposed of in a composting facility.

(3) *Management*. Each permitted facility must have a certified compost operator on staff. This certification can be the Compost Specialization

Certificate from the Professional Recyclers of Pennsylvania (PROP), or other DEP-approved certification courses.

d. *Site Maintenance*. The entire area shall be kept clean and orderly.

e. *Site Access*. Access to the site shall be limited to those posted times when an attendant is on duty. In order to protect against indiscriminate and unauthorized dumping, every composting facility shall be protected by locked barricades, fences, gates or other positive means designed to deny access to the area at unauthorized times or locations.

Section 3.05 Accessory Uses

(A) *General Provisions.*

1. *Accessory Uses Allowed*. Accessory Uses as listed in Table 3.02.1, Table of Permissible Uses, are allowed only in connection with the lawfully established Principal Uses.

2. *Allowed Uses*. Allowed Accessory Uses are limited to those expressly regulated in this Ordinance as well as those that satisfy the following criteria:

a. They are customarily found in conjunction with the subject Principal Use(s) or Principal Structure;

b. They are subordinate and clearly incidental to the Principal Use(s) of the property; and

c. They serve a necessary function for the comfort, safety, or convenience of occupants of the Principal Use(s).

3. *Accessory Structures*. Refer to Section 4.01 of this Ordinance.

4. *Time of Construction and Establishment*. Accessory Uses may be established only after the Principal use of the subject property is in place.

5. *Location*. Accessory Uses shall be located on the same Lot as the Principal Use to which they are accessory.

(B) *Accessory Uses*.

1. Accessory Dwelling Unit.

A dwelling clearly subordinate to the principal Building on the same Lot and serving a purpose customarily incidental to the principal residential Building. This unit will be considered an Accessory Dwelling Unit if it is 1) located in a separate structure or offers an independent entrance, 2) provides sleeping, cooking, and bathroom facilities independent from the principal dwelling, 3) is occupied by family relations of the primary residence and 4) the unit is occupied by no more than two (2) people. The following supplemental use regulations shall apply:

a. A property Owner shall file a Zoning Permit for an accessory dwelling unit prior to its recognition as an Accessory Dwelling Unit. The property proposed for an Accessory Dwelling Unit shall contain one (1), but no more than one (1), residential Structure occupied as a one-unit Dwelling.

b. The property shall be Owner-occupied, either in the Principal Structure or principal Dwelling Unit, or in the accessory Dwelling.

c. The Accessory Dwelling Unit shall be located either:

(1) In a newly constructed Accessory Dwelling Unit Structure;

(2) In an existing detached accessory Structure occupied, or formerly occupied, on the first floor by a garage, barn, or similar Accessory Use; or

(3) In a Principal Structure, including a Tiny Home, as defined in Section 6 of this Ordinance, provided that there is a separate entrance to the exterior or to an unconditioned porch type space.

d. With the exception of a Tiny Home as defined Section 3.04(A)5.f. of this Ordinance, the Usable GFA of the Accessory Dwelling Unit shall not exceed fifty (50) percent of the Usable GFA of the principal dwelling unit or 1,000 square feet, whichever is less. Exterior patios, decks, porches, and staircases providing interior access from the principal unit to the Accessory Dwelling Unit shall not be counted toward the Usable GFA of the Accessory Dwelling Unit.

e. *Parking*. A minimum of one (1) off-street parking spaces are required for an Accessory Dwelling Unit.

f. *Pedestrian Access*. An all-weather surface path to the Accessory Dwelling Unit shall be provided from the Street frontage.

g. A separate numeric address for the Accessory Dwelling Unit is prohibited.

h. No new, separate utility connection may be installed for the Accessory Dwelling Unit in a Principal Structure, unless more than one utility connection already serves the Lot, to the location of the proposed Accessory Dwelling Unit, at the time of the application for the Accessory Dwelling Unit.

i. At any one time, the number of residents of an Accessory Dwelling Unit shall be limited to:

(1) One (1) adult and minor children related to said adult by blood, marriage, adoption, custodianship, or guardianship; or

(2) Two (2) adults (in total) and minor children related to at least one (1) of the adults by blood, marriage, adoption, custodianship, or guardianship.

j. *Wastewater Disposal*. Certification that the Accessory Dwelling Unit can adequately connect to either the existing sewer line or septic system that is serving the principal use. In no case shall an Accessory Dwelling Unit be served by a separate septic system. Provided that the primary dwelling is connected to the public sewer system, an Accessory Dwelling Unit shall connect or tie into the primary dwelling's sewer line.

k. *Lot Non-severability*. The Accessory Dwelling Unit may not be conveyed, or the title to the Accessory Dwelling Unit be transferred separate and apart from the rest of the property.

l. *Mechanical Equipment*. Mechanical equipment shall be located on the ground or contained within an Accessory Dwelling Unit and may not be located on the roof.

2. *Accessory Solar Energy Systems (ASES)*.

An area of land or other area used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. An Accessory Solar Energy System (ASES) consists of one (1) or more free-standing ground mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels. The following supplemental use regulations shall apply:

a. ASES that have a maximum power rating of not more than 15kW shall be permitted as a use by right in all zoning districts. Ground mounted ASES that have a power rating more than 15kW shall comply with the requirements for Principal Solar Energy Systems (PSES).

b. *Exemptions*. ASES with an aggregate collection and/or focusing area of fifty (50) square feet or less are exempt from this Ordinance.

c. The ASES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM),), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code as enforced by the Municipality and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

d. *Permit Requirements*.

(1) Zoning permit applications shall document compliance with this Ordinance and shall be accompanied by drawings showing the location of the ASES on the building or property, including property lines. Permits must be kept on the premises where the ASES is constructed.

(2) The zoning permit shall be revoked if the ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this Ordinance.

(3) The ASES must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the owner of the ASES to conform or to remove the ASES.

e. *Roof Mounted and Wall Mounted ASES*.

(1) A roof mounted or wall mounted ASES may be located on a principal or accessory building.

(2) The total height of a building with an ASES shall not exceed by more than three (3) feet above the maximum building height specified for principal or accessory buildings within the applicable zoning district.

(3) Wall mounted ASES shall comply with the setbacks for principal and accessory structures in the underlying zoning districts.

(4) Solar panels shall not extend beyond any portion of the roof edge.

(5) For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Uniform Construction Code and adopted building code of the Township that the roof or wall is capable of holding the load imposed on the structure.

f. *Ground Mounted ASES*.

(1) *Setbacks*.

(a) Except as listed in Subsection f.(1)(b) below, all ASES must meet the minimum yard requirements for the applicable zoning district where they are proposed to be located.

(b) The minimum yard setbacks for such freestanding ground mounted ASES shall be as follows:

i. *Front Yard*. One hundred fifty (150) feet.

ii. *Side Yard*. Thirty (30) feet; total side yards shall be sixty (60 feet).

(2) *Height*. Ground mounted ASES shall not exceed fifteen (15) feet in height above the ground elevation surrounding the systems.

(3) Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the ASES shall be locked to prevent unauthorized access or entry.

(4) Ground-mounted ASES shall not be placed within any legal easement or right-of-way location or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system.

(5) *Glare*.

(a) All ASES shall be placed such that concentrated solar radiation, or glare does not project onto nearby structures or roadways. Exterior surfaces shall have a non-reflective finish.

(b) The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

(6) Prior to the issuance of a Zoning Permit, Applicants shall acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in the property Owner, its, his, her or their successors and assigns in title or, create in the property itself:

(a) The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or

(b) The right to prohibit the development on or growth of any trees or vegetation on such property.

(7) *Decommissioning*.

(a) Each ASES and all solar related equipment shall be removed by the Owner and at the Owner's expense within twelve (12) months of the date when the use has been discontinued or abandoned by system Owner and/or operator, or upon termination of the useful life of same.

(b) The ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of twelve (12) continuous months.

(8) The ASES shall be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the Owner of the ASES to conform or to remove the ASES.

3. *Accessory Wind Energy Systems (AWES)*.

An area of land or other area used for a collection system used to capture wind energy, convert it to electric energy, and supply electric power primarily for on-site use. An AWSES consists of one (1) or more free-standing ground mounted wind turbines or wind energy-related equipment and is intended to primarily reduce on-site consumption of utility power or fuels. The following supplemental use regulations shall apply:

a. *General*. Accessory Wind Energy Systems (AWES) shall be permitted as an accessory use in all zoning districts subject to the following conditions:

(1) *Maximum Number Permitted*. Only one (1) ground mounted AWES and one Building mounted AWES is permitted on a Lot.

(2) *Noise Performance Standards*. The noise performance standards specified under Section 4.19 of this Ordinance shall apply.

(4) When an accessory Building is necessary for storage or related mechanical equipment, the accessory Building shall comply with the accessory Building requirements of the underlying zoning district.

(5) The Structure supporting the wind rotor unit, including any necessary guideposts and supporting cables, shall be independent of any occupied Structure and located a minimum distance of the supporting structure height plus ten (10) feet from any occupied dwelling, and shall not be more than one and one half (1.5) times the maximum principal Building Height limits specified for the applicable zoning districts under Article 2 of this Ordinance.

(6) The minimum distance between the tower and any property line shall be not less than two (2) times the Height of the supporting structure.

(7) The minimum distance between grade and the lowest point of the rotor blade shall be twenty (20) feet.

(8) All electric line/utility wires shall be buried underground.

(9) Any mechanical equipment associated and necessary for operations, including a Building for batteries and storage cells, shall be enclosed with a six (6) foot high fence. The supporting Structure shall also be enclosed with a six (6) foot fence unless the base of the tower is not climbable for a distance of twelve (12) feet.

(10) When a Building is necessary for storage cells or related mechanical equipment, the Building shall not exceed one hundred forty (140) square feet in area, nor eight (8) feet in Height and shall be located at the base of the supporting Structure.

(11) The resultant energy harnessed from the wind shall be used on the property it is located on and not used as a commercial enterprise.

(12) The supporting Structure and generating unit shall be kept in good repair and sound condition. Upon discontinuance or abandonment of Use, the supporting Structure and related Structures shall be dismantled and removed from the property within sixty (60) days. The AWES shall be presumed to be discontinued or abandoned if no electricity is generated by such AWES for a period of three (3) continuous months.

(13) *Maintenance*. The AWES shall be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the Owner of the AWES to conform or to remove the AWES.

b. *Requirements for Ground Mounted AWES*.

(1) Ground mounted AWES may be placed on Lots of any size assuming they meet the requirements of this section.

(2) *Height*.

(a) AWES Height shall not be restricted assuming that the AWES meets the setback requirements.

(b) The minimum ground clearance for the AWES shall be (15) feet.

(3) *Setbacks*. All AWES shall be set back from property lines, occupied Buildings, above ground utility lines, railroads and/or road Right-of-Way by a distance equal to no less than one times the total Height.

(4) *Number*. One (1) ground mounted AWES is permitted per Lot.

(5) *Location*.

(a) Ground mounted AWES are prohibited in front yards, between the principal Building and the public Street.

(b) Installation of a ground mounted AWES may be authorized in front of the principal Building, outside the required front yard, if the Applicant demonstrates to the Zoning Hearing Board through a Special Exception that, due to wind access limitations, no location exists on the property other than the front yard where the AWES can perform effectively.

(6) *Safety and Security*.

(a) The Owner shall post electrical hazard warning Signs on or near the AWES.

(b) Ground mounted AWES shall not be climbable up to (15) feet above ground surface.

(c) Access doors to any AWES electrical equipment shall be locked to prevent entry by unauthorized persons.

c. *Requirements for Building Mounted AWES*.

(1) Building mounted AWES may be located on any Lot regardless of size.

(2) Height regulations shall not apply to Building mounted AWES, provided the Height does not exceed the limitations of the zoning district for which they are located.

(3) There is no limit on the number of Building mounted AWES.

d. *Other General Requirements*.

(1) The display of advertising is prohibited except for identification of the manufacturer of the system.

(2) AWES shall not be lighted except for any lighting required to comply with Federal Aviation Administration (FAA) or Pennsylvania Department of Transportation Bureau of Aviation (BOA) regulations

(3) AWES shall be painted a non-reflective, flat color such as white, off white or gray unless required to be colored differently from FAA or BOA regulations.

(4) AWES shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, over speeding and excessive pressure on the tower Structure, rotor blades and turbine components.

(5) An AWES shall not cause shadow flicker on any occupied Building on a non-participating landowner's property.

(6) No part of any AWES shall be located within or above the required setbacks of any Lot, extend over parking areas, access drives, driveways or sidewalks.

(7) The Owner of the AWES shall provide evidence that the Owner's insurance policy has been endorsed to cover an appropriate level of damage or injury that might result from the installation and operation of the wind energy facility.

4. *Agricultural Commercial Enterprise*.

An accessory use to an Agricultural Operation for the purpose of directly marketing agricultural products produced by the Agricultural Operation in their natural or manufactured state. The term shall include any on-farm processing, packaging or other activity performed in the course of direct marketing of the farmer's agricultural products. Examples include but are not limited to farm stands, creameries, pick-your-own operations, community supported agriculture (CSA), Christmas tree farm, etc.

a. An Agricultural Commercial Enterprise shall be conducted in such a way that no traffic congestion, noise, glare, air pollution, odor, smoke, vibration, fire hazards, safety hazards, electromagnetic interference, or otherwise, shall be noticeable at or beyond the property line.

b. The hours of operation shall be consistent with other businesses in the district and protect neighbors from light, noise, disturbance, or interruption.



Farm stand



Direct milk sales at farm



CSA pick up at farm

5. *Agritourism Marketing Enterprise*.

An accessory use to an Agricultural Operation at which activities are offered to the public or to invited groups for the purpose of recreation, entertainment, education, or active involvement in the agricultural operation. These activities shall be related to agriculture or natural resources and incidental to the primary operation on the site. These activities may include a fee for participants. Examples include but are not limited to hayrides, corn mazes,

farm tours, rodeo, educational exhibits, agriculturally related events, recreation related tours, wedding venues, and other special event activities, etc. The following supplemental use regulations shall apply:

a. An Agritourism Marketing Enterprise shall be conducted in such a way that no traffic congestion, noise, glare, air pollution, odor, smoke, vibration, fire hazards, safety hazards, electromagnetic interference, or otherwise, shall be noticeable at or beyond the property line.

b. The hours of operation shall be consistent with other businesses in the district and protect neighbors from light, noise, disturbance, or interruption.



Structure with educational exhibits


Corn maze


Hay ride

6. *Airstrip (Private), Heliport/Helistop*.

An aviation use that is accessory to the principal use of a property. The following supplemental use regulations shall apply:

a. *Airstrip, Private*. Personal takeoff and landing facility attached to the owner's property and used only by the owner of said property. The following supplemental use regulations shall apply:

(1) *Minimum Lot Area*. Five (5) acres.

(2) All facilities shall be designed and operated in strict compliance with all applicable State and Federal laws and regulations.

(3) The Applicant shall furnish evidence of the obtainment of a license from the Pennsylvania Department of Transportation, Bureau of Aviation, prior to the approval of the conditional use application.

(4) No part of the take-off/landing strip and/or pad shall be located nearer than 1,500 feet from any property line.

b. *Heliport*. The use regulations for the principal Heliport and Helistop uses specified under Section 3.04(H)2. of this Ordinance shall apply.

c. *Helistop*. The use regulations for the principal Heliport and Helistop uses specified under Section 3.04(H)3. of this Ordinance shall apply.

7. *Automobile Car Wash*.

A permitted accessory use to a permitted Principal Use as specified under Table 3.02.1 that consists of a Building or Structure with accompanying open-air stations designed and used primarily for the automatic, semiautomatic, or hand washing, drying, polishing, and vacuuming of automobiles. This use does not include Truck Wash. The following supplemental use regulations shall apply:

a. Car washes shall include a water reclamation system for the purpose of recycling water.

b. Centralized sewage disposal facilities and centralized water supply facilities shall be provided. Filtration of wastewater shall be conducted before discharge to a sanitary sewer system.

c. A National Pollutant Discharge Elimination System (NPDES) permit from the Pennsylvania Department of Environmental Protection is required to discharge wastewater directly into a surface water body or to a storm sewer that discharges to a surface water body.

d. Residual sludge shall be disposed of in accordance with the Pennsylvania Department of Environmental Protection requirements and standards.

e. On-Lot traffic circulation channels and parking areas shall be clearly marked.

f. Adequate provision shall be made for the proper and convenient disposal of refuse.

g. Water from the car wash operation shall not flow onto sidewalks or Streets, to prevent hazards from ice.

8. *Carport, Portable or Temporary*.

A covered space, open on three or more sides, used for the storage in which automobiles, boats, campers, trailers or other similar items within said Structure, is not placed on a permanent foundation and can be easily removed from or moved on the property, accessory to the property's Principal Use. The following supplemental use regulations shall apply:

a. Shall not be placed within any required Front or Side Yards.

b. Shall be placed no closer than five (5) feet from the Setback line for any Rear Yard or Side Yard.

9. *Community Garden*.

Permitted as an Accessory Use pursuant to the provisions specified under Subparagraph 3.05(C)3. of this Ordinance.

10. *Drive-Through Facility*.

A facility that provides or dispenses products or services, through an attendant or an automated machine, to persons remaining in vehicles that are in designated stacking aisles. A Drive-Through Facility is accessory to primary Service or Commercial Uses, such as a

financial institution, personal service shop, retail store, eating establishment, convenience store, etc. In these guidelines, a drive-through facility does not include a car wash, parking garage kiosks, or gas pump islands. The following supplemental use regulations shall apply:

a. *Lot Size*. Lot sizes shall be large enough to efficiently and safely serve the operations of the Vehicle Drive Through Facility while accommodating all necessary elements of good and efficient site design of Vehicle Drive-through Facilities.

b. *Number*. No more than one (1) Drive Through Facility may be permitted per Lot.

c. *Placement*.

(1) Buildings with a Drive-through Facility shall be located as close as possible to the Street line or corner Street frontages for corner sites, to help frame the Street edges. The siting of the Building relative to the Street shall consider the existing and future development on the Street or in the neighborhood.

(2) Sites with multiple commercial Buildings on the property, Drive-Through Facilities shall be located internal to the site away from property corners, intersections of Streets or from the Street frontages, to reduce the visibility of vehicle drive-through traffic on the site from Street view.

d. *Site Access*.

(1) Vehicle access shall be provided pursuant to the requirements of the Middlesex Township Subdivision and Land Development Ordinance. The subject site shall have access to a Collector or Arterial Street. The Applicant shall provide evidence that the site shall be provided with stacking lanes that avoid queuing back up onto public Streets.

(2) Access driveways to Vehicle Drive-through Facilities shall be located as far away as possible from Street intersections and corners and designed in accordance with the applicable Street design standards.

(3) The number of access driveways into a site shall be minimized to reduce conflicts between turning vehicles and other users of the Street, reduce curb cuts and interruptions to the sidewalk.

(4) Vehicle queuing lanes shall be separated from all aisles, shall not result in additional curb cuts along the same Street frontage and shall not have direct ingress and egress from any Street.

(5) Vehicle queuing lanes shall not obstruct or interfere with parking spaces, pedestrian aisles or walkways and loading or service areas.

e. *Parking*.

(1) Parking areas shall provide designated crosswalks to convey pedestrians across driveways or vehicle queuing lanes to enter the Building.

(2) The parking areas shall not conflict with the ingress and egress of the vehicle queuing lanes. This can be achieved by locating the parking areas away from the vehicle queuing lanes or clearly delineating the parking areas with appropriate barriers and signage.

11. *Electric Vehicle Charging Station (EVCS)*.

A privately owned or publicly accessible parking space that is served by Electric Vehicle charging equipment for the purpose of transferring electric energy to a battery or other energy storage device in an Electric Vehicle. An Electric Vehicle Charging Level shall be defined as the standard indicator of electric force or voltage at which an Electric Vehicle is recharged as follows and as illustrated in Figure 3.05.1.

a. *Level 1*. A slow charging system with a voltage range of 0 through 120 AC123. For the purposes of a Zoning Permit application, Level 1 EVCS is for private use only.

b. *Level 2*. A medium charging system with a voltage range of 121 through 240 AC124. For the purposes of a Zoning Permit application, Level 2 EVCS is for both private and public use.

c. *Level 3 (DC Fast Charge)*. A fast-charging system with a voltage range of greater than 240 AC125. For the purposes of a Zoning Permit application, Level 3 is for public use only.

d. The following performance standards apply to Level 1, 2, and 3 EVCSs:

(1) All EVCS regulations authorized by this Ordinance shall be read in conjunction with the Parking and Loading standards specified in Section 4.15 of this Ordinance.

(2) A Property Owner shall not install any EVCS on a property until a Zoning Permit has been issued by the Township to the Property Owner.

(3) *Electric Vehicle Make Ready System*.

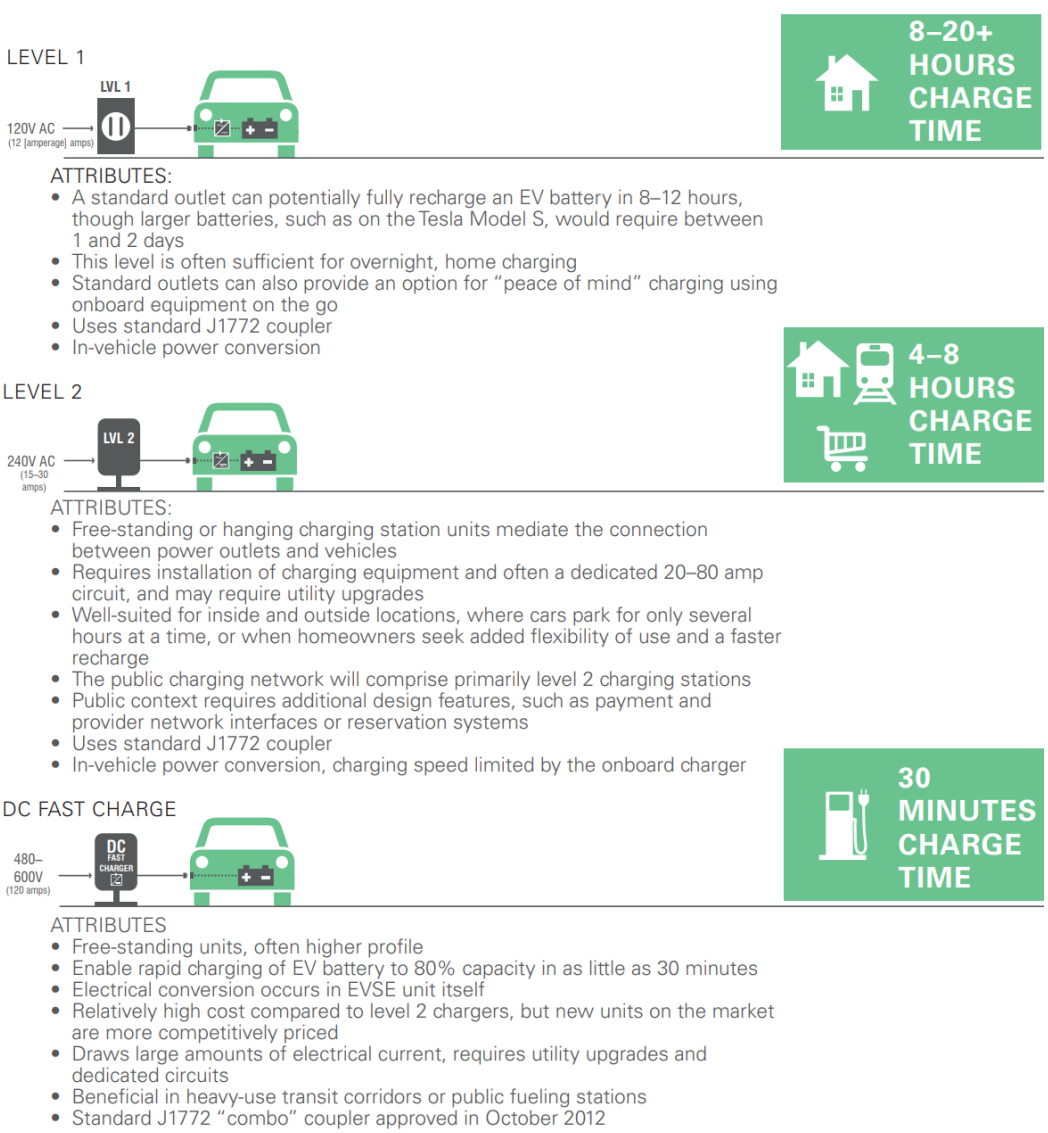
(a) All new, expanded and reconstructed parking areas may provide for the electrical capacity necessary to accommodate the future hardware installation of EVCS through an Electric Vehicle Make Ready System.

(b) Property Owners may apply for a Zoning Permit for an Electric Vehicle Make Ready System at the time of construction or renovation of appropriate charging areas.

(c) A Property Owner who installs an Electric Vehicle Make Ready System rather than an EVCS may not qualify for a reduction to the parking space provision requirements specified in Section 4.15 of this Ordinance until the time the EVCS facility is installed.

Figure 3.05.1, Electric Vehicle Charging Levels

Source: Siting and Design Guidelines for Electric Vehicle Supply Equipment, November 2012



12. *Farm Occupation*.

An accessory use to an Agricultural Operation at which goods and services are rendered in support of local agricultural operations or to supplement on-farm income. Examples include but are not limited to tractor repair services, custom cabinetry, welding shop, internet-based business, auctions, repair services, catering, home occupations, traditional trade businesses, etc.

13. *Keeping of Chickens*.

The keeping of Chickens for non-Agricultural Operations and non-Commercial Business purposes shall be permitted as an Accessory Use as specified in Table 3.02.1 and shall abide by the following regulations:

a. *General*.

(1) The keeping of Chickens under this Ordinance shall be permitted in residential zones when in compliance with the provisions of this Article.

(2) The keeping of Chickens shall not be for commercial purposes.

(3) These regulations do not apply to the raising of poultry and other fowl as an Agricultural Operation use and where such uses are permitted within this Ordinance.

(4) A permittee shall not engage in commercial: (1) chicken breeding; (2) sale of chickens; (3) egg producing; or (4) fertilizer production.

b. *Number of Chickens per Lot*.

(1) Three (3) chickens shall be permitted for the first one quarter (¼) acre.

(2) One (1) additional chicken shall be permitted for each additional one quarter (¼) acre, up to a maximum of ten (10) chickens per Lot.

(3) Notwithstanding Section 13.b.(2), there shall be no limit on the number of chickens on Lots over five (5) acres.

c. Type. Chickens shall be hens. Roosters and English Gamecocks are prohibited.

d. Coops.

(1) Chicken coops shall:

(a) Have a solid roof.

(b) Be solid on all sides.

(c) Have adequate ventilation.

(d) Provide protection from predators.

(e) Be designed to secure the chickens.

(f) Be readily accessible for cleaning.

(2) Coops shall be either:

(a) Commercially built/designed; or

(b) Built by the Owner.

(3) Coops shall provide a minimum of three (3) square feet per chicken.

e. *Pens*.

(1) Pens shall provide minimum of ten (10) square feet of area for the first chicken, and then an additional three (3) square feet per each additional chicken permitted under Subsection 13.b.(2).

(2) Pens shall be constructed in a way to prevent chickens from roaming free and keep predators from getting into the pen.

(3) The Pen shall be accessible by the hens from their Coop when they are not secured in the Coop.

f. *Location*.

(1) Pens and Coops shall be located in the Rear Yard only and shall meet the setback requirements of the zoning district within which the use is located.

(2) Any part closer than ten (10) feet from any property line shall be screened by closed fencing or solid hedge.

g. *Living Conditions*.

(1) Chickens shall have access to feed and clean water at all times.

(2) Feed shall be secured to prevent rodents or other pests from accessing the feed.

h. *Disposition of Deceased Chickens*. Chicken carcasses shall be disposed of in compliance with 3 Pa. C.S. § 2352, and no Person shall slaughter a Chicken in a residential zone.

i. *Disposal of Waste Material*. All waste shall be disposed of in any of the following ways:

(1) Owners may compost the waste themselves; or

(2) An Owner may give the waste to another Person who composts. In such instances, the Owner shall:

(a) Notify any Person using the material to compost that the waste contains Chicken excrement.

(b) Notify any Person given compost that the compost was made from Chicken waste.

(3) Waste may not be disposed of by dumping in any location.

14. *Keeping of Honeybees*.

The Keeping of Honeybees for non-Agricultural Operations and non-Commercial Business purposes shall be permitted as an Accessory Use as specified in Table 3.02.1 and shall abide by the following regulations:

a. *General*.

(1) The Keeping of Honeybees under this Ordinance shall be permitted in residential zones when in compliance with the provisions of this Article.

(2) The Keeping of Honeybees shall not be for commercial purposes.

(4) These regulations do not apply to beekeeping and apiaries when associated with an Agricultural Operation use and where such uses are permitted within this Ordinance.

(5) The keeping of one (1) or more colonies of the common domestic honeybee, Apis Mellifera, shall be permitted as an Accessory Use to a permitted primary use when in compliance with Pennsylvania's Bee Law, 3 Pa. C.S.A. § 2101, *et seq.*, as amended. Additionally, all beekeepers shall maintain their colonies per the *Voluntary Best Management Practices for Maintaining European Honeybee Colonies in the Commonwealth of Pennsylvania* as provided and as may be amended by the Pennsylvania Apiary Advisory Board. Colonies include a hive and its equipment and appurtenances, including bees, comb, honey, pollen, and brood. The following supplemental use regulations shall apply.

b *Maximum Number of Colonies*.

(1) Any Lot containing a residential Use shall be limited to two (2) colonies. One additional colony is permitted for every 1,000 square feet of Lot Area over 10,000 square feet, and an absolute maximum of ten (10) colonies.

(2) *Exceptions*. A beekeeper may exceed these regulations under the following conditions:

(a) As part of normal honey bee colony management, a beekeeper may also keep, in addition to allowable standard hives, for up to forty-five (45) days between April 15th and August 15th, two nucleus colonies per standard hive, provided they are used for managing colony strength, to minimize reproductive swarming, queen rearing or swarm capture.

(b) For each allowed hive, a single nucleus hive may be kept from August 16th to April 14th to allow a beekeeper to mitigate winter bee losses.

(c) Apiaries that are pre-existing prior to enactment of this Ordinance shall not be subject to the limitations of section 4b and shall not

exceed the number of hives active at the time of the ordinance and shall be confirmed by the pre-existing apiary registration of the location as reported by the Pennsylvania Department of Agriculture, Bureau of Plant Industry.

c. *Colony Size*. No colony shall exceed twenty (20) cubic feet in volume.

d. *Location*. A colony shall be located in a Rear or Side Yard on any Lot with a Residential or Community Garden Use. No colony shall be located in the front yard nor closer than ten (10) feet from any property line or principal Building on an abutting Lot unless a flyway barrier is in place. No colony shall be located within fifty (50) feet of a pre-existing swimming pool or a pre-existing kenneled animal.

e. *Flyway Barrier*. A flyway barrier of at least six (6) feet in Height shall shield a property line within ten (10) feet of a colony, unless the base of the colony is located more than six (6) feet above the ground.

(1) A required flyway barrier shall consist of a wall, fence, dense vegetation, or a combination thereof.

(2) The barrier shall be positioned along the side of the hive(s) that contains the entrance to the hive(s).

(3) The barrier shall be located within five (5) feet of the hive(s) and shall extend at least two (2) feet on either side of the hive(s).

(4) Exceptions to Flyway Barrier. A flyway barrier is not required if the property adjoining the apiary Lot line is:

(a) Undeveloped, or

(b) Zoned agricultural, industrial or is outside municipal limits, or

(c) Is a state game lands, state park, national forest, state forest, natural park, or conservation area and has no pre- existing human or horse trails located within twenty-five (25) feet of the property line.

f. *Agricultural Commercial Enterprise*. No sales of honey shall occur on the Lot containing the honeybee colony, except in the case of a honeybee colony located on an Agricultural Operation or Community Garden where there is a Agricultural Commercial Enterprise, in which case the operator of the honeybee colony shall be permitted to sell honey at the Agricultural Commercial Enterprise.

g. *State Registration Required.* All persons keeping bees in the Township shall apply for a certificate of registration for beekeeping pursuant to the Bee Law, as amended.

h. *Education Certification*. Written evidence shall be provided to the Township from each and every individual engaged in beekeeping activities and shall have completed a beekeeping education course/program with a minimum of eight (8) hours of instruction or has a letter of validation from an officer of the PA State Beekeepers Association, an officer of a local bee club, or a certified Master Beekeeper.

i. *Water*. A supply of fresh water shall be maintained in a location readily accessible to all bee colonies on the site throughout the day to prevent bees from congregating at neighboring swimming pools or other sources of water on nearby properties.

j. *Nuisance*. It shall be unlawful for any beekeeper to keep any hive in such a manner as to cause any unhealthy condition or interfere with the normal use of adjoining properties. By way of example and not limited to, the following activities are hereby declared a nuisance and therefore unlawful:

(1) The use of receptacles for honeybees that does not comply with the Bee Law, as amended.

(2) Hive placement and related bee movement such that the bees, without provocation, interfere with the reasonable freedom of movement of persons in a public Right-of-Way, or the location of bees have a proven impact to the general safety, health, and welfare of the public.

k. *Inspection*. If an inspection is required as a result of a nuisance complaint, the designated municipal code enforcement officer will inspect the property only and not the beehives. A representative of the state or local beekeeping organization will be contacted to assist in understanding how the complaint arose and to what extent it is actually caused by the honeybees/beekeeper (i.e., "bee" stings are often caused by yellow jackets, hornets and wasps and mistakenly blamed on honeybees because the honey bee colonies can be seen unlike many other aggressive stinging insects). A notice of forty-eight (48) hours shall be given to the beekeeper prior to any inspection.

15. *Keeping of Exotic Wildlife*.

(a) *Permit Required*.

(1) It shall be unlawful for anyone to own, harbor, or permit at large any Exotic Wildlife within the Township without a permit issued by the Pennsylvania Game Commission. No permit shall be granted by the Commission until it is satisfied that the provisions for housing and caring for the Exotic Wildlife and protection for the public are proper and adequate and in accordance with the standards which may be established by regulations. It is unlawful to release any exotic wildlife into the wild, fail to exercise due care in safeguarding the public, or recklessly engage in conduct that places another Person in danger of attack from exotic wildlife.

(2) Persons responsible for the keeping of Exotic Wildlife shall abide by the standards of the Pennsylvania Game Commission permit requirements at all times and is subject to inspection by the Township Zoning Officer who shall have the authority to notify the Pennsylvania Game Commission of any suspected and documented violations of such issued permit.

(3) A copy of the Pennsylvania Game Commission issued permit(s) shall be filed with the Zoning Officer by the Owner/operator of an Exotic Wildlife operation.

(b) *Setbacks*. All Structures associated with animal sanctuaries shall be located no less than five hundred (500) feet from any side or rear Yard.

(c) *Lot Size*. Animal sanctuary facilities shall be located on Lots containing not less than ten (10) acres.

(d) *Screening*. Animal sanctuary facilities shall provide screening in accordance with the Screening Standards specified in Section 4.03 of this Ordinance.

16. *Keeping of Livestock*.

The keeping of equine, bovine, or swine class, including goats, sheep, mules, horses, hogs, cattle, and other grazing animals, and all ratites, including, but not limited to, ostriches, emus, and rheas for non-Agricultural Operations and non-Commercial Business purposes shall be permitted as an Accessory Use as specified in Table 3.02.1 and shall abide by the following regulations:

a. *General*.

(1) The Keeping of Livestock under this Ordinance shall be permitted in residential zones when in compliance with the provisions of this Article.

(2) The Keeping of Livestock shall not be for commercial purposes.

(3) These regulations do not apply to the Keeping of Livestock as an Agricultural Operation use and where such uses are permitted within this Ordinance.

b. The keeping of any livestock that existed lawfully prior to the effective date of this Ordinance that is not permitted under this title may be continued as a Nonconforming Use, except that if the Nonconforming Use is discontinued for one year or more it shall then be deemed abandoned and any future keeping of animals shall be in conformity with this Ordinance.

c. Table 3.05.1 specifies the requirements based on the size of animal for the Keeping of Livestock as an Accessory Use.

d. Exceptions to these standards shall be presented by the Property Owner through an alternative animal management plan to be heard by the Zoning Hearing Board. Approval of the plan by the Zoning Hearing Board shall be considered a Special Exception Use and shall be subject to all required conditions. If an approved plan is violated or causes situations that become a nuisance to adjoining property owners, the use shall be subject to revocation by the Zoning Officer.

Table 3.05.1, Keeping of Livestock Requirements.

Livestock Group Type	Livestock Group Description[1]	Minimum Lot Size	Minimum Setback of Livestock Keeping Area including Shelters and Manure Storage Area
Group 1	Animals whose average adult weight is less than 10 lbs. shall be permitted at an animal density of 12 per acre, with a maximum number of 50 animals.	3 acres	Up to 25 animals = 25' Above 25 animals = 50'
Group 2	Animals whose average adult weight is between 10 and 65 lbs. shall be permitted at an animal density of two per acre, with a maximum number of 20 animals.	3 acres	Up to 2 animals = 50' Above 2 animals = 60'
Group 3	Animals whose average adult weight is greater than 65 lbs. shall be permitted at an animal density of 1 per acre.	3 acres	75'

[1]See Table 1 Standard Animal Weights – https://www.clintoncountypa.com/home/showpublisheddocument/2980/637387022614930000

e. *Living Conditions*.

(1) Livestock shall have access to feed and clean water.

(2) Feed shall be secured to prevent rodents or other pests from accessing the feed.

(3) A Veterinarian shall be identified and used for any necessary medical care, and such professional shall be identified in the Applicant's zoning permit application.

(4) All outdoor pasture/recreation areas shall be enclosed with fencing to prevent the escape of the animals.

f. *Disposition of Deceased Livestock*. Livestock carcasses shall be disposed of in compliance with (3 Pa. C.S. §2352) and no Person shall slaughter Livestock in any residential zone.

g. *Disposal of Waste Material*. All waste shall be disposed of in any of the following ways:

(1) Owners may compost the waste themselves.

(2) An Owner may give the waste to another Person who composts. Where the waste is composted, the Owner shall:

(a) Notify any Person using the material to compost that the waste contains Livestock excrement.

(b) Notify any Person given compost that the compost was made from Livestock waste.

(3) Waste may not be disposed of by dumping in any location.

17. *Manure Storage Facility*.

An accessory use to an Agricultural Operation that is a permanent Structure or facility, or portion of a Structure or facility, utilized for the primary purpose of containing manure. Examples include liquid manure structures, manure storage ponds, component reception pits and transfer pipes, containment structures built under a confinement Building, permanent stacking and composting facilities and manure treatment facilities. The term does not include the animal confinement areas of poultry houses, horse stalls, freestall barns, or bedded pack animal housing systems. The following performance shall apply:

(a) All manure storage facilities shall be designed in compliance with the guidelines outlined in the publication Manure Management for Environmental Protection, Bureau of Water Quality Management Publication No. 43, and any revisions, supplements and replacements thereof, published by the Pennsylvania Department of Environmental Protection.

(b) If required, manure storage facilities' designs shall be reviewed by the Cumberland County Conservation District and furnish a letter from the Conservation District attesting to approval of the design of the proposed facility.

(c) Construction and subsequent operation of the waste storage facility shall be in accordance with the applicable permit and the approved design.

18. *Mineral and Resource Extraction Activities Associated with a Land Development Project*.

The temporary accessory removal, extraction, processing, stockpiling, and storage of mineral and resource materials from a Land Development project site during construction and development phase. Such accessory use activities are to be performed within the limits of the Land Development site and only during the construction phase of the land development project.

19. *No-Impact Home-Based Business*.

A business or commercial activity administered or conducted as an Accessory Use which is clearly secondary to the Use as a residential dwelling and which involves no customer, client, or patient traffic, whether vehicular or pedestrian, pickup, delivery, or removal functions to or from the Premises, in excess of those normally associated with residential Use. The business or commercial activity shall satisfy the following requirements:

a. The business activity shall be compatible with the residential use of the property and surrounding residential uses.

b. The business shall employ no employees other than family members residing in the dwelling.

c. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

d. There shall be no outside appearance of a business Use, including, but not limited to, parking, Signs or lights.

e. The business activity may not Use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.

f. The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential Use in the neighborhood.

g. The business activity shall be conducted only within the dwelling and may not occupy more than twenty-five (25) percent of the habitable GFA.

h. The business may not involve any illegal activity.

20. *Outdoor Dining Area*.

An area on a public sidewalk or other publicly accessible paved area directly abutting and adjacent to and/or upon the same Lot as an associated eatery or any premises licensed by the Pennsylvania Liquor Control Board pursuant to 40 Pa. Code § 7.21, as amended, which is used for the purpose of furnishing food and beverage to patrons for consumption therein. The following supplemental use regulations shall apply:

a. An area which is on the sidewalk, patio or deck which directly abuts the restaurant may be used for the purpose of furnishing food and beverages outside to the patrons of the restaurant.

b. Outdoor dining areas shall provide not less than five (5) contiguous feet of sidewalk clear of obstructions to allow unimpeded pedestrian traffic. Dining areas shall be arranged to permit a smooth alignment of the pedestrian sidewalk across several properties and shall not cause abrupt turns or angles. At Street corner intersections there shall be a minimum of eight (8) feet of unobstructed sidewalk between the area measured from the outside edge of handicapped ramps on each Street frontage. Obstructions shall include, but not be limited to, light poles, traffic signal poles, fire hydrants, trees, utility structures and Street signs. Further, the location of outdoor dining cannot obstruct the Clear Sight Distance for vehicles or access or crossings for the disabled, nor be located with three (3) feet from the face of the curb or traffic lane. Any unobstructed portion of the three (3) foot setback from the face of the curb may be counted toward the five (5) foot wide sidewalk area required herein.

c. The outdoor dining area must be separated from all parking areas, Streets or driveways by a barrier which is at least four (4) feet in height and no higher than six (6) feet in height. The barrier must prevent patrons of the restaurant from exiting directly onto the parking area, Street or driveway adjacent to the outdoor dining area and instead must require the patrons of the restaurant to exit the outdoor dining area in a safe manner, either onto a sidewalk or through another means of ingress and egress which is approved by the Township. The barrier may be a fence, wall, or another suitable barrier approved by the Township which will prevent a hazardous condition and protect the health and safety of the outdoor diners from vehicular traffic on adjacent parking areas, Streets, or driveways.

d. The area used for outdoor dining must not block any off-street parking, access driveways, accessible walkways, fire lanes or loading areas.

e. Open flames or external heating devices are permitted if approved by the Township Fire Marshal.

f. If entertainment is provided in the outdoor dining area, any amplified sound must meet the Township noise regulations and cease by 9:00 PM prevailing time on weekdays and 10:00 PM prevailing time on weekends.

g. The applicant must demonstrate that there is sufficient off-street parking for the area used for outdoor dining based on off-street parking requirements specified under Section 4.15 of this Ordinance.

h. Property shall be served by public water and public sewer.

i. *Umbrellas and Outdoor Furniture*. When used, umbrellas shall be installed and maintained to provide pedestrian clearance by maintaining seven (7) feet of clearance from the Sidewalk to the lowest edge of the umbrella. Umbrellas shall not exceed a maximum height of nine (9) feet from the base to the top portion of the pole.

k. *Outdoor Displays*. Outdoor displays shall be limited to single items or object displays or a few examples of items or goods sold in the store and must comply with all other standards specified herein.

l. The restaurant shall stop serving customers on or before 10:00 PM prevailing time and clear all tables of food, beverages and customers on or before 11:00 PM, prevailing time.

m. Furniture, planters, railings and fences must be removed from the sidewalk and stored indoors when outdoor dining is not in seasonal operation.

n. The operator of an outdoor dining area and his or her employees shall not be permitted to remove, destroy, deface, or otherwise alter any Sign, notice, curb, storm inlet, or other public device or improvement.

21. Outdoor Display and Sales.

The Outdoor Display and Sales of merchandise or other items offered for sale or advertisement of a Principal Retail or Service Use. The following supplemental use regulations shall apply:

a. Outdoor displays may not extend more than five (5) feet from the Building Façade and in no instance shall merchandise or other items for sale or advertisement be located within an established public Right-of-Way line. In the case of Street Lines and Building Lines being coincident, there shall be no outdoor display;

b. Merchandise or other items displayed as the Accessory Use shall be restricted to those items or merchandise which are sold at the Principal Use;

c. Notwithstanding any provision of this Article, the public way, Street, Sidewalk, Curb, and all means of ingress and egress to the Structure containing the Principal Use shall be maintained free of obstructions, merchandise or other items. A

minimum of five (5) feet of Sidewalk shall remain available and obstacle-free for passing pedestrians.

22. *Outdoor Storage Yard*.

The accessory use of land for the purpose of the outdoor storage and retrieval of equipment, vessels, construction supplies, or other related items or goods. The following supplemental regulations shall apply:

a. Outdoor storage yard areas shall not be used for the service, repair, maintenance activities, including washing/cleaning, or to conduct similar activities of any of the items stored at the outdoor storage yard.

b. Outdoor storage yards shall not be occupied or used for living or sleeping purposes.

c. Storage on a site shall meet the following requirements:

(1) Storage areas shall occur in a designated space, approved as part of the overall site plan.

(2) Boats stored on the site shall be placed upon wheeled trailers and have the appropriate license; no dry stacking of boats shall be permitted on-site.

(3) Stacking of stored materials shall not exceed a height of twenty-five (25) feet.

(4) No loose materials such as sand, lumber, cardboard boxes and/or similar items which may be scattered or blown about the premises by normal weather conditions shall be allowed. All equipment, building supplies and construction materials shall be tied down and secured.

23. *Parking*.

Parking as an Accessory Use in conjunction with an adjacent Principal Use on the Lot.

a. *Parking Lot*. A parking Lot is a Paved Surface used solely for the parking of Vehicles, intended for Use by the occupants in an adjacent Building on the Lot. A parking Lot may be uncovered or covered by a Renewable Energy Structure.

b. *Parking Structure*. An Accessory Structure used solely for the parking of Vehicles, intended for Use by the occupants in an adjacent Building on the Lot. The following supplemental use regulations shall apply:

(1) *Location*. An accessory parking Structure shall be located as follows:

(a) Parking Structures shall be located in the Rear Yard only and shall be screened from view from the front of the Lot or the primary Street to the Principal Use Structure.

(b) An accessory public or private garage shall meet the setback requirements of the principal Building.

(2) The perimeter of an accessory public or private garage shall be landscaped in accordance with Section 4.03 of this Ordinance.

24. *Short-Term Rental*.

The Accessory Use of a Building (except a Hotel, Motel or Bed and Breakfast) where, for compensation, temporary – i.e., less than thirty consecutive (30) days – lodging is provided for the transient guests and meals are not provided. The following Use regulations shall apply:

a. *Permit Required*.

(1) No owner of any property in the Township shall operate a Short-Term Rental in the Township without obtaining a Zoning Permit from the Zoning Officer. Operation of a Short-Term Rental without a permit is a violation of this Ordinance. Permits may be transferable to any new owner of the property provided an application with updated contact information is submitted to the Township and all prior violations of this Ordinance have been remedied.

(2) The issuance of a Zoning Permit is not a warranty that the premise is lawful, safe, habitable, or in compliance with this Ordinance.

(3) Permit Application Requirements. Short-Term Rental permit applications shall contain all of the following information:

(a) The name, address, telephone number and email address of the owner.

(b) The name, address and twenty-four (24) hour telephone number of the designated Local Property Representative as required by Subsection 21.c.(1) of this Section.

(c) Floor plan identifying rooms on all floors, specific location of bedrooms, and location of any pools labeled as either in-ground or above-ground.

(d) The total number of bedrooms.

(e) If the Building is a multi-unit Structure, the total number of dwelling units in the Structure and the number of dwelling units being used as Short-Term Rentals.

(f) A diagram or aerial photograph showing the location and number of on-site parking spaces.

(g) Copy of current Cumberland County Hotel Room Excise Tax Certificate.

(h) Copy of current Pennsylvania Sales and Use Tax Permit or signed attestation that a third party collects this on behalf of the Short-Term Rental owner.

(i) Signatures of the owner and the designated Local Property Representative.

(j) By signing the Short-Term Rental application, the owner gives authorization to the Township to enter onto the property to inspect and ensure compliance with this Ordinance and all applicable ordinances and regulations administered and enforced by the Township.

(k) Written notice to an applicable homeowners' association, indicating the intent to make application for and Use the subject residential property for a Short-Term Rental, when applicable.

(4) A separate Short-Term Rental Zoning Permit is required for each Dwelling Unit; for Two-Family or Multi-Family Dwellings, a separate Permit shall be required for each Dwelling Unit being rented as a Short-Term Rental.

(5) A Short-Term Rental Zoning Permit is effective for a period of one (1) annual term calendar year, or until any of the conditions of the Short-Term Rental which are governed by this Ordinance are changed, whichever shall first occur. Permits must be renewed annually. Short-Term Rental permits may be applied for up to ninety sixty (96) days before the start of the annual term expiration of a Short-Term Rental Permit.

b. *Operating Standards*.

(1) *Local Property Representative*. The Landowner must designate a Local Property Representative who shall be available twenty-four (24) hours per day, seven (7) days per week, for the purpose of (1) responding within one hour to complaints regarding the condition, operation, or conduct of occupants of the short-term rental, and (2) taking remedial action to resolve any such complaints. The name, address, and telephone contact number of the Landowner and the local property representative shall be kept on file at the Township. The failure to provide the contact information, failure to keep the contact information current, failure to respond in a timely manner to complaints, or the occurrence of repeated complaints may result in the suspension or revocation of approval and/or civil or criminal penalties.

(2) *Restrictions on Use*. A renter may not Use a short-term rental for a purpose not incidental to its Use for lodging or sleeping purposes. This restriction includes using the rental for a wedding, banquet, reception, bachelor or bachelorette party, concert, fundraiser, sponsored event, or any similar group activity.

(3) *Parking*. There will be no demand for parking beyond that which is normal to the current residential property Use and no unusual or excessive traffic to and from the premises.

(4) *Signage*. No outdoor advertising Signs related to the rental dwelling shall be allowed on the site.

(5) *Insurance*. The Landowner shall maintain on file at the Township an up-to-date certificate of insurance documenting that the dwelling is insured as a short-term or vacation rental.

(6) Outdoor parking for overnight and day guests shall be limited to available parking areas on the Short-Term Rental property. Parking for Short-Term Rental guests shall not include spaces in any private, community, or on any lawns or vegetated areas. All off-street parking spaces shall be properly marked to ensure guests are aware of the location of proper onsite parking.

(7) Overnight occupancy of recreational vehicles, camper trailers, and tents at the property where the Short-Term Rental is located is prohibited. Outdoor overnight sleeping of occupants or guests of the Short-Term Rental is prohibited.

(8) A Short-Term Rental shall not have any outside appearance indicating a change of Use.

(9) Subleasing all or a portion of the dwelling unit is prohibited.

25. *Signs*.

Signs, as regulated under Section 5 of this Ordinance, are an Accessory Use to the Principal Use.

26. *Water Cooling and/or Storage Systems for Data Centers*.

A water or other liquid cooled technology system used to support the efficient and cost-effective cooling of high-density Data Center uses. The design and location of Water Cooling and/or Storage Systems for Data Centers shall conform with the requirements specified under Section 2.18 of this Ordinance.

Section 3.06 Temporary Uses

(A) *General*.

1. Temporary Uses are limited to those expressly regulated in this Ordinance as well as those that in the Determination of the Township Board of Supervisors are deemed appropriate as a Temporary Use.

2. A Temporary Use that is conducted annually or on a similar recurring basis as determined by the Township and has received Special Exception approval from the Township Zoning Hearing Board. The temporary Use may be permitted to recur thereafter with approval from the Zoning Officer provided that the event location, format, and operations have not substantially changed from the original approval and that the conditions established in the original approval are deemed applicable. All other Temporary Uses shall receive Special Exception approval for each occurrence.

(B) *Temporary Uses*.

1. *Farmers Market*.

A public market administered by a market manager and held multiple times per year to connect and mutually benefit farmers, communities, and shoppers. The Farmers Market shall allow as vendors predominantly local farmers, farmers' cooperatives and producers selling any of the following: whole produce; value-added agricultural products such as jams, jellies, and pickles; prepared food; all agricultural and horticultural products including but not limited to whole produce, plants, flowers, meats, dairy products, and other food-related products. The following supplemental use regulations shall apply.

a. The Applicant shall indemnify, save harmless, and defend (if requested) the Township and the Owner(s) of any private or public property upon which the Famers Market shall be held and their respective officers, agents, and employees from any and all claims, suits, or actions for injuries, death and/or property damage arising out of the Temporary Outdoor Event where the claim, suit, or action was caused by the Applicant, its officers, agents, and employees, the event participants, support staffs, event officials, volunteers, medical support, technical support, media vehicles, event communications staffs, the traveling public, general public, or spectators.

b. A certificate of insurance shall be provided showing: (a) general liability insurance for bodily injury and property damage in the minimum amount of $250,000.00 per Person and $1,000,000.00 per occurrence to cover any loss that might occur as a result of the Permitted use of the local and state rights of way or private property that might otherwise arise out of or be connected with the Farmers Market; (b) occurrence-based coverage; and (c) the Township and applicable public and private Landowners named as the additional insured. The Applicant warrants the information in the insurance certificate is accurate.

c. Written permission for use of any private property shall be obtained from the Owner(s), or other Person with authority to grant same, and be submitted to the Zoning Officer.

d. The farmers' market is of a temporary nature, namely, in operation only one day or two (2) days per week between the maximum hours of 8 AM to 8 PM prevailing time.

e. A minimum Lot Area of one hundred (100) square feet per stand shall be provided.

f. Farmers Market vendors shall obtain a Retail Food License from the Pennsylvania Department of Agriculture to operate a food facility at a farmers' market, whether the market is inside or outside. Each individual stand is considered its own retail food facility and shall obtain its own license to operate.

2. *Model Home and/or Subdivision Sales Office*.

A Building Structure used for the temporary conduct of the sales of dwelling units proposed for construction and sale within an approved subdivision. The following performance standards shall apply:

a. Such use shall be located in a subdivision that is owned by or held in trust for the subdivision developer proposing to erect the dwelling units for sale and/or proposing to operate the sales office.

b. Such use shall meet the bulk and area requirements of the zoning district within witch the use is located.

c. Such use shall be meet the land development design standards as specified by the Middlesex Township Subdivision and Land Development Ordinance.

d. Such use shall be permitted for a period not to exceed thirty (36) months from the date of approval for the sales offices and/or model homes. A time extension may be granted upon the issuance of a new Zoning Permit.

e. The Model Home and/or Subdivision Sales Office use shall be discontinued on or before the original termination date set forth under the Zoning Permit, upon expiration of the extension granted by the Zoning Officer, or after six (6) months following sale or occupancy of all Lots in the subdivision other than the model homes, whichever occurs first.

f. Such use shall not serve as sleeping quarters.

3. *Open Air Market*.

An outdoor market for the retail sale of new or used merchandise, produce or other farm products, whether operated by a single vendor or composed of stalls, stands or spaces rented or otherwise provided to vendors. The term does not include the outside display of merchandise as an incidental part of retail activities regularly conducted from a permanent Building or other areas immediately adjacent to, and upon the same Lot as, such Building. The term also does not include merchandise sold at festivals or other special events, temporary in duration, at which the display and sale of merchandise is incidental to the primary cultural, informational or recreational activities of such festival or special event. The following Use regulations shall apply:

a. A plan depicting the layout of the site, including dimensions, of the sales area, accessways, parking areas and location of trash receptacles;

b. Specific days and hours of operation; and

c. The means, such as stalls, tables or other structures, by which merchandise is to be displayed.

d. Vehicle parking shall be provided on-site and shall comply with the Off-Street Parking standards specified in Section 4.15 of this Ordinance.

e. There shall be no less than one (1) trash receptacle per 1,000 square feet of sales area, all trash receptacles shall be emptied regularly so as not to overflow, and litter and debris shall not be permitted to accumulate.

f. Merchandise, stalls or other materials shall not be stored outdoors while the use is not open for business.

g. Operation shall be restricted to the time between 9:00 AM to 5:00 PM prevailing time.

h. The operation shall not disturb the tranquility of residential areas or other areas in close proximity or otherwise interfere with the reasonable use and enjoyment of neighboring property by reason of excessive noise, traffic or overflow parking.

4. *Temporary Construction Site Trailer*.

A Manufactured Home or industrialized housing type Structure used only for office facilities or for storage of construction-related equipment or materials. The following Use regulations shall apply:

a. *Minimum Off-Street Parking Calculations*. A mud free parking area shall be provided containing one (1) parking stall, ten (10) feet by twenty (20) feet minimum size for each ten (10) Lots in the portion of the subdivision currently under development. Access Aisles shall be a minimum twenty (20) feet in width.

b. Temporary Construction Site Trailers may be established via the Township Zoning Permit process, when proposed for an approved construction project.

c. Temporary Construction Site Trailers shall observe the minimum Setback requirements imposed upon the Township approved Principal Use of the subject Lot.

d. Temporary Construction Site Trailers shall not serve as sleeping quarters.

e. Temporary Construction Site Trailers when used as occupied contractor, lease or sales offices shall be equipped with appropriate skirting or safety fence/mesh material to prevent children and animals from crawling under said Structure.

f. A Temporary Construction Site Trailer may serve as a temporary lease or sales office until a model housing unit is complete, provided the following criteria are met:

(1) A hard paved driveway and parking Lot Area shall be provided containing one (1) parking stall, ten (10) feet by twenty (20) feet in size, for each ten (10) Lots in the portion of the subdivision currently under development.

(2) A Pennsylvania Department of Transportation Highway Occupancy or Township Street Occupancy Permit shall be required if the parking Lot Area's driveway accesses such roads.

(3) The temporary sales operation shall only be permitted between 8:00 AM to 5 PM prevailing time.

g. If restroom facilities do not exist in the Temporary Construction Site Trailer, portable toilets shall be provided; the number of which shall be as determined by the Township Sewage Enforcement Officer.

h. No combustible materials shall be stored in the Temporary Construction Site Trailer.

i. All Temporary Construction Site Trailers shall be removed within forty-eight (48) hours of the completion of construction or the expiration of the Zoning Permit for the construction to which it is related, whichever occurs first.

5. *Temporary Outdoor Event and/or Retail Sales*.

A Temporary Outdoor Event and/or Retail Sales such as a carnival, circus, Street celebration, race, bazaar, market, procession, assemblage, temporary sales tents (e.g., fireworks, flowers, etc.) or other similar outdoor event. Such events may be on a Street, Open Space, or other public space in which public access is wholly or partially restricted. The event may include the sale of goods. The following supplemental use regulations shall apply:

a. The Applicant shall indemnify, save harmless, and defend (if requested) the Township and the Owner(s) of any private or public property upon which the event/activity will be held and their respective officers, agents, and employees from any and all claims, suits, or actions for injuries, death and/or property damage arising out of the Temporary Outdoor Event where the claim, suit, or action was caused by the Applicant, its officers, agents, and employees, the event participants, support staffs, event officials, volunteers, medical support, technical support, media vehicles, event communications staffs, the traveling public, general public, or spectators.

b. A certificate of insurance must be provided showing: (a) public liability insurance for bodily injury and property damage in the minimum amount of two hundred fifty thousand dollars ($250,000) per Person and one million dollars ($1,000,000) per occurrence to cover any loss that might occur as a result of the Permitted use of the local and state rights of way or private property that might otherwise arise out of or be connected with the event; (b) occurrence-based coverage; and (c) the Township and applicable public and private Landowner's named as the additional insured. The Applicant warrants the information in the insurance certificate is accurate.

c. The event location or route shall be appropriately secured with proper security and safety measures taken to protect the event participants, support staffs, event officials, volunteers, medical support, technical support, media vehicles, vehicle escort services, maintenance and protection services, the traveling public, event communications staffs, the general public, and spectators. Proper emergency medical services shall be provided. Local fire departments, the general public, and the traveling public shall be notified in advance of the event.

d. Written authorization shall be obtained from the Pennsylvania Department of Transportation (PennDOT) via a Special Event Permit granting the Applicant permission to Use the Right-of-Way of a state roadway. The Applicant shall provide the Township with a complete copy of the Special Event Permit and associated documentation. All information shall be submitted to the Zoning Officer.

e. Written permission for use of any private property must be obtained from the Owner(s), or other Person with authority to grant same, and be submitted to the Zoning Officer.

ARTICLE 4 SUPPLEMENTAL REGULATIONS

Purpose. The purpose of these supplemental zoning regulations is to set specific performance standards related to the Use of a Lot including accessory Buildings and Structures, buffering and screening, off-street parking, encroachments, outdoor storage, etc. Use requirements contained elsewhere in this Ordinance apply to all Uses and Structures, whether or not specifically listed in this Article. Likewise, the provisions of this Article shall not be interpreted as relief from the requirements of this Ordinance or any other requirements of the Township. Certain of the following supplemental regulations or provisions thereof, to the extent specified therein, are applicable to any and all existing and proposed Uses of land, Buildings, or Structures.

Section 4.01 Accessory Buildings and Structures

(A) *General*. Unless otherwise specified in this Ordinance, the requirements of this section shall apply to both residential and non-residential accessory buildings or structures.

1. An accessory Building or structure not attached to the principal structure may be located in any required side or rear yard provided:

   a. Such buildings or structures shall not exceed twenty-five (25) feet in height.

   b. All such buildings or structures taken together shall not occupy more than thirty (30) percent of the area of the required rear or side yard where so located.

   c. Such buildings or structures shall not exceed three hundred eighty-four (384) square feet (16' x 24') in GFA.

   d. Accessory buildings or structures in residential districts shall be located no closer than ten (10) feet from any side or rear Lot line. Accessory buildings or structures for principal uses other than residential shall be located no closer than fifteen (15) feet to any side or rear property line abutting a residential district or Lot used for residential purposes.

2. When an accessory Building or structure is attached to the principal Building it shall comply in all respects with the requirements of this Ordinance applicable to the principal Building.

3. No accessory Building or structure shall project nearer to the Street on which the principal Building fronts than the minimum Building setback distance for the principal Building.

4. All accessory buildings or structures in excess of three hundred eighty-four (384) square feet must comply with the Building setbacks for the zoning district in which it is located.

5. Buildings or structures originally designed for transportation after fabrication on Streets and highways on their own wheels and arriving at the site where they are to be utilized complete and ready for use except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like, including but not limited to buildings or structures originally designed as mobile homes, as vans, as trailers, or as buses, are not permitted as accessory buildings or structures.

(B) *Fences or Walls*. Unless otherwise prescribed in this Ordinance, fences or walls shall be erected, altered and maintained in accordance with the following requirements:

1. Fences and walls (not including retaining walls) may be erected, altered, and maintained within yards provided that any such fence or wall shall not exceed six (6) feet in height.

2. No wall fence, Sign or other structure shall be erected or altered, and no hedge, trees, shrubs or other growth shall be maintained or permitted which may cause danger to traffic or a Street or public road by obscuring the view.

3. No fence, wall or other structure shall be erected or maintained within the Right-of-Way of any Street, drainage or sewer Right-of-Way, or any other public easement.

4. A fence or wall may be erected higher than six (6) feet, but shall not exceed eight (8) feet in the following instances:

   a. A fence up to eight (8) feet in height is permitted to enclose a swimming pool, provided such fence and pool are located within the rear yard and at a minimum of ten (10) feet from any property line.

   b. A fence up to eight (8) feet in height is permitted to enclose a patio, provided such fence and patio are located within the rear yard and at a minimum of ten (10) feet from any property line.

   c. A fence eight (8) feet in height is permitted in the rear yard area if located outside the required rear and side Yard Setbacks.

5. Notwithstanding the requirements in Subsection 4a., 4.b. and 4.c. above, industrial and commercial uses are permitted to exceed the eight (8) foot maximum fence or wall requirement provided that such fence or wall does not interfere with sight distance requirements.

(C) *Private Antenna Towers*. Private Antenna towers shall be a permitted accessory use in accordance with the following requirements:

1. The private tower Antenna shall be intended and used solely for the enjoyment of the occupants of the principal dwelling unit on which it is located.

2. The private tower Antenna shall be affixed to a principal or accessory Building or Structure in such a way that there are at least two fastening points holding the tower to said Building or Structure or shall be a freestanding Structure with required Yard Setbacks equal to the Height of the tower.

3. The maximum height of a private tower Antenna may exceed the maximum height of the principal permitted use by one (1) foot in height for each two (2) feet the Building is set back from any property line, but in no instance shall said tower's height exceed ten (10) feet above the principal use's height.

Section 4.02 Arterial Road and Interchange Development

(A) All proposed uses fronting on Arterial Roads, as designated by the PA Department of Transportation and as defined in Article 6 Definitions of this Ordinance, or located in the vicinity of grade separated highway interchanges, shall be subject to the following requirements and not those that may be specified elsewhere in this Ordinance:

1. Setback. All structures fronting on Arterial Roads or on an approach ramp leading to a grade separated highway interchange shall be set back not less than seventy-five (75) feet from the Right-of-Way line of such road or highway.

2. *Driveway Access Points.* All structures fronting on Arterial Roads shall be limited to no more than two (2) driveway access points. Such driveway access points shall not exceed thirty (30) feet in width at any such point and shall not be located nearer than one hundred fifty (150) feet to one another.

3. *Interchange Ramp Protection.* Individual driveway access points and intersecting roads on any approach ramp are prohibited for a distance of three hundred (300) feet from the end of any interchange ramp which intersects with the approach ramp.

4. *Interchange Development.* No structure other than directional signs and/or other traffic control signs or devices erected by a governmental body shall be erected within two hundred (200) feet of the Right-of-Way of any grade separated interchange providing access to any approach ramp. Such area may, however, be used in providing required Lot area or yard space. No activity or use shall be established within seventy-five (75) feet of any such interchange except as provided above, and the natural vegetation and terrain within said seventy-five (75) feet shall remain undisturbed.

Section 4.03 Buffering, Landscaping, and Screening

The Landscaping Requirements of the Middlesex Township Subdivision and Land Development Ordinance shall apply to all required buffering, landscaping, and screening specified by this Ordinance.

Section 4.04 Bulk and Area Modifications and Exceptions

(A) *Height Modifications*.

1. Typical rooftop appurtenance structures or equipment projecting above the highest point on the roof and not intended for human occupancy such as air conditioners, Antenna, architectural screening of rooftop appurtenances, chimneys, church steeples, church spires, elevator penthouses, mechanical equipment, vent pipes and water towers shall not be included when calculating Building Height.

2. Typical roof top appurtenances shall not exceed twenty-five (25) feet in height above the highest point on the roof and must be setback from the property boundary by a distance equal to or greater than their height above the highest point on the roof.

3. Typical Building appurtenances do not include structures such as alternative tower structures, antennas, Antenna support structures, monopoles or tall structures that are part of a personal wireless service facilities.

4. For all residential uses, accessory Buildings shall not exceed the maximum height requirements specified in the applicable zoning under Article 2 of this Ordinance.

(B) *Lot Area*. The minimum required Lot areas specified for the R-1 District in Article 2 of this Ordinance may be modified through the application of the Conservation Subdivision Design standards specified under Section 4.06 of this Ordinance.

(C) *Lot Frontage*. Except for a nonconforming Lot or as provided for under Section 4.20 Required Street Access of this Ordinance, all Lots must Abut a public or Township approved private Street and meet the Lot width requirement in the district in which it is located.

(D) *Projections into Yards*.

1. Uncovered stairways and necessary landings may project into a required yard to a distance of not more than four (4) feet, provided that such stair and landing shall not extend above the entrance floor of the Building, except for a railing, not to exceed three (3) feet in Height.

2. Uncovered porches or decks, when constructed more than six (6) inches above the finished grade level may project into a required yard to a distance of not more than five (5) feet.

3. Uncovered patios and walkways at ground level elevations may be located in the required side and rear yards not closer than ten (10) feet to any adjacent property line and may project into front yards up to fifteen (15) feet.

4. Cornices, eaves, gutters, bay windows, roof overhangs or chimneys may project into a required yard not more than twenty-four (24) inches.

5. Apparatus or architectural structures needed for efficient operations of solar energy systems, including but not limited to overhangs, insulating walls and roofs, solar collectors or reflectors, may project into a required yard not more than four (4) feet.

6. Light fixtures, sidewalks or walkways on grade, fences, handicapped ramps, flagpoles for official government flags of the United States and its political subdivisions, sidewalks, walkways or ramps when not connected to a Building, vegetation, landscaping materials, decorative lawn ornaments, bird feeders, handrails along sidewalks or ramps may project into any required yard.

(E) *Yard Regulations*.

1. An accessory Building shall not be erected or altered within any front yard except as may be permitted under Section 4.01(A) and Section 4.04(D) of this Ordinance.

2. Off-street parking shall be required as specified under Section 4.15(B)4. of this Ordinance.

3. *Double Frontage Lots*. Double frontage Lots shall provide the required front yard along each Street.

4. *Side Yard, Corner Lot*. On a corner Lot, the side yard abutting the Street shall have a width equal to the depth of the front yard required in the district and shall be subject to all front yard requirements of this Ordinance.

5. Where a side wall of a Building is not parallel with the side yard Lot line or where a side yard is irregular, the average side yard may be considered the required minimum width, provided that the side yard shall not be narrower than five (5) feet nor less than one-half (1/2) the required minimum width at any point. The average side yard shall be determined by establishing the average of the distance from the two closest corners of the principal Building and the side property line. The averaged side yard distance shall be measured from the center of the principal Building.

6. *Rear Yard Where Lot is Irregularly Shaped*. In the case of an irregular, triangular or gore-shaped Lot, the required minimum depth of a rear yard may be deemed to be the average depth, provided that no rear yard so averaged shall be less than ten (10) feet nor one-half (½) the required minimum depth at any point. The average rear yard shall be determined by establishing the average of the distance from the two (2) closest corners of the principal

Building and the rear property line. The average rear yard distance shall be measured from the center of the principal Building.

7. For non-residential properties, no Side Yard or Rear Yard shall be required where such Yard abuts an operating railroad Right-of-Way.

(F) *Yard Reduction*. A Lot located in a district where residential structures are permitted held in single and separate ownership at the effective date of this Ordinance, with a Lot width less than that required by the zoning district, only one (1) single-family dwelling may be erected, and side yards shall be provided in accordance with the following requirements:

1. *Side Yard, Corner Lot*. On corner Lots with a width of fifty (50) feet or more, two (2) side yards shall be provided. The exterior side yard abutting the Street may be reduced by the number of feet by which the Lot width is less than the district requirement but may not be reduced to less than the required interior side yard. The interior side yard shall be provided as required by the district regulations.

2. For Lots less than the width required by the governing zoning district, but not less than twenty-seven (27) feet in width, two (2) side yards shall be provided, each equaling twenty (20) percent of the Lot width.

3. For Lots having a depth of less than ninety (90) feet, the required rear yard may be reduced by twenty (20) feet of the Lot depth but in no case less than one-half (1/2) the required rear yard.

Section 4.05 Commercial Vehicles

(A) One (1) Commercial Vehicle not exceeding twenty-five (25) feet in length may be parked on an occupied Lot in any residential district specified under Article 2 of this Ordinance, between the Street line and the principal Building.

(B) One commercial vehicle not exceeding twenty (25) feet in length may be parked within a private garage in any residential district specified under Article 2 of this Ordinance.

(C) Commercial farm vehicles are permitted as accessory to a principal Agricultural Use as permitted under Table 3.02.1of this Ordinance.

Section 4.06 Conservation Subdivision Design Standards

(A) *Purpose*. In the R-1 District, it shall be required to utilize one (1) or more contiguous parcels of land having a total area of twelve (12) or more acres for a Conservation Subdivision Design, which affords flexibility in subdivision design to:

1. Conserve Open Space, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development; to protect areas of the Township with prime agricultural soils for continued or future agricultural use by conserving blocks of land large enough to allow for efficient farm operations.

2. To preserve the existing natural systems and features of the Township, particularly existing plant communities, habitats, and wildlife.

3. To maintain visual buffers of natural vegetation between areas of new development and adjacent roads and properties.

4. To buffer the impacts of man-made developments from air pollution, noise pollution, bright lights, and glare.

5. To assist in the control of surface stormwater runoff across lawn and other open areas by preserving existing vegetation, hedgerows, and buffer areas of natural vegetation to slow and retain such surface runoff.

6. To preserve the rural character of the Township by preserving interconnected buffer areas of natural vegetation between developed areas.

7. To minimize erosion and stabilize sloped areas on the development site.

8. To protect mature trees as assets of the site.

9. To minimize the cost of providing and maintaining new landscaping.

10. Provide for the conservation and maintenance of Open Space within the Township to achieve the above-mentioned goals; and for passive recreational use by residents.

(B) *General Regulations*.

1. These Conservation Subdivision Design standards permit land to be developed using the provisions as contained herein and designed and approved according to the requirements of the Middlesex Township Subdivision and Land Development Ordinance. Subdivisions developed in accordance with the provisions herein shall be a permitted use in the R-1 District.

2. Properties within the R-1 Districts meeting the requirements of Section 2.07(D) of this Ordinance, must be developed in strict conformance with the Conservation Subdivision Design standards specified under Section 4.06 of this Ordinance.

3. Conservation Subdivision may be developed on property consisting of a minimum twelve (12) acres of contiguous land.

4. A minimum of fifty (50) percent of the tract must be set aside for permanent Open Space as defined under Subsection (I). All Open Space land shall be permanently restricted from future development or subdivision by a conservation easement or other method of protection and preservation acceptable to the Township. The permanent Open Space area must not contain all of the non-buildable area on the site.

5. Except as otherwise provided, all provisions of the R-1 District shall apply, respectively.

6. The subdivision shall be designed in full consideration of and to reasonably maximize the preservation of important natural features, including mature woodlands, tree rows, riparian buffer areas, steep slopes, floodplains and wetlands. The subdivision plan shall minimize all development within such sensitive natural areas by clustering the development in more suitable areas of the tract.

(C) *Review Procedures*.

1. The Township shall review and approve a Conservation Subdivision and any amendments thereto as a land development project in the manner provided for under this Ordinance and

the land development application submission and approval procedures specified in the Middlesex Township Subdivision and Land Development Ordinance.

2. When a conservation Subdivision is proposed on a portion of the tract, the Township may require a site inventory and a non-binding conceptual plan be submitted for the entirety of the tract to promote the coordinated development of the overall tract.

(D) *Lot Calculation*. The applicant shall apply either the Adjusted Tract Area or Yield Plan approach as specified below for calculating the base number of dwelling units that may be constructed on the site.

1. *Adjusted Tract Area Approach*. Applicants using this method must understand in general that the site constraints as listed in Table 4.06.1 are features of the land that constrain or inhibit development. An increased amount of site constraints on the Conservation Design subdivision property will reduce the Adjusted Tract Area and consequently may reduce the maximum number of residential dwelling units allowed on the subject Conservation Design subdivision property.

Table 4.06.1, Constrained Area Types and Multiplier Factors

Constraint Area Type	Multiplier Factor
Land within rights-of-way of existing public streets or highways, or within the rights-of-way or easements for existing or proposed overhead utility lines	1.00
Land under existing private streets	1.00
Wetlands	0.95
Floodway	1.00
100-Year Floodplain (non-wetland portion)	0.50
Slopes greater than 25%	0.80

a. Step 1: Using the following formula and calculation table template shown in Table 4.06.2, calculate the total effective area of constrained lands by multiplying the area of land in each site constraint type times the constraint factor for each site constraint type (as shown in Table 4.06.1) and adding up the resulting effective areas of constrained land for each site constraint type. Where more than one type of constrained land overlaps, the constrained land with the higher constraint factor shall apply.

[Effective Area of Constrained Lands = Sum of (Area of Site Constraint x Constraint Factor for each Site Constraint Type]

Table 4.06.2, Example Effective Area of Constrained Lands Calculation

Site Constraint Type	Area of Site Constraint (acres)	Site Constraint Multiplier Factor	Effective Area of Constrained Land (acres)
Wetlands	5.0	0.95	4.75
Steep Slopes greater than 25%	6.0	0.80	4.80

Floodway	1.8	1.00	1.8
Floodplains	14.0	0.50	7.00
TOTAL EFFECTIVE AREA OF CONSTRAINED LANDS			18.35

b. Step 2: Using the following formula, calculate the Adjusted Tract Area by subtracting the total effective area of all constrained lands from the total (gross) tract area of the entire proposed development tract.

[Adjusted Tract Area = Gross Tract Area – Total Effective Area of Constrained Lands]

Example Adjusted Tract Area (ATA) Calculations:
ATA = 100 acres (gross tract area) – 18.35 acres (total effective area of constrained lands) = 81.65 acres

c. Step 3: Using the following formula, calculate the maximum possible number of residential dwelling units allowed on the Conservation Design subdivision property by multiplying the Adjusted Tract Area times the Maximum Density permitted within the R-1 Zoning District. Round down fractional units of 0.5 or less and round up fractional units greater than 0.5.

[Maximum Possible Number of Dwellings Units Allowed on Conservation Subdivision Property = Adjusted Tract Area x Maximum Density in the R-1 Zoning District]

Example Calculation of Maximum Possible Number of Dwelling Units:
(Adjusted Tract Area) 81.65 acres x (Maximum Density in R-1) 0.726 dwelling units per acre = 59 dwelling units

d. If the applicant believes that the development site can reasonably accommodate a greater number of Lots than the number derived from the Adjusted Tract Area method above, the Applicant may prepare a Yield Plan in accordance with the provisions specified in Subsection (D)2. below.

2. *Yield Plan Approach*. Determination of the maximum possible number of dwelling units allowed using the Yield Plan method shall require an actual residential lot configuration using the minimum lot size required in the underlying zoning district, as demonstrated by an actual Yield Plan.

a. The Yield Plan shall use the Existing Resources and Site Analysis Plan, prepared in accordance with Section 5.01 of the Middlesex Township Subdivision and Land Development Ordinance to identify all Primary Conservation Areas on the property; and shall demonstrate that these Primary Conservation Areas could be permanently preserved and not disturbed during the development process, by incorporating them into the proposed residential lots.

b. The Yield Plan shall be drawn to scale and be based on a field survey. The Yield Plan shall be a realistic lot configuration reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplains, steep slopes, existing easements or encumbrances and, if

no public sewer facilities are available to serve the property, the suitability of soils for individual on-lot soils-based sewage disposal systems.

c. The Yield Plan shall meet the following specific requirements:

(1) *Underlying Zoning District Standards*. The dimensional standards of the R-1 Zoning District shall be used in preparing Yield Plans for conservation subdivisions. The minimum lot areas as required in the underlying zoning district shall not include any areas of wetlands, steep slopes over twenty-five (25) percent, and land under high-tension electrical transmission lines (69kV or greater). In addition, not more than twenty-five (25) percent of the minimum lot areas as required in the underlying zoning districts shall consist of land within the one hundred (100) year floodplain.

(2) *Subdivision and Land Development Ordinance Standards*. Yield Plans shall be prepared as conceptual lot configuration plans in accordance with standards in the Middlesex Township Subdivision and Land Development Ordinance and shall include at least the following elements:

(a) Proposed lots.

(b) Proposed and existing Streets.

(c) Proposed and existing rights-of-way.

(d) Other features pertinent to developing a Yield Plan to show an actual residential lot configuration on the property.

(3) *Individual Soils-Based On-Lot Sewage Disposal Systems*.

(a) Development sites not served by public sewer facilities or community soil-based on-lot sewage disposal systems, the maximum possible number of dwelling units that could be developed on the property shall be further determined by evaluating the potential for providing individual soils-based on-lot sewage disposal systems permitted in accordance with regulations of the PA DEP; except that such systems proposing the use of sewage holding tanks, small flow treatment facilities, constructed wetland systems, spray irrigation systems or similar evapotranspiration systems shall be excluded from consideration for the purposes of this evaluation.

(b) Based on the Existing Resources Inventory Mapping and Site Analysis Report prepared in accordance with Section 5.01 of the Middlesex Township Subdivision and Land Development Ordinance and observations made during an on-site visit of the property, the Middlesex Sewage Enforcement Officer, after consultation with the Township Engineer or other consultants, shall select a ten (10) percent (10) sample of the lots considered marginal for individual soils-based on-lot sewage disposal systems permitted in accordance with regulations of the PA DEP. The applicant shall provide evidence that each of these lots has been tested in accordance with regulations of the PA DEP meet the standards for an individual soils-based on-lot sewage disposal

system. Should any of the lots in a sample fail to meet the standards, those lots shall be eliminated from the Yield Plan Then, a second ten (10) percent sample of such lots determined marginal for individual soils-based on-lot sewage disposal systems shall be selected by the Middlesex Township Sewage Enforcement Officer, after consultation with the Township Engineer or other consultants, and tested for compliance to the standards. This process shall be repeated until all lots in a given sample meet the standards for an individual soils-based on-lot sewage disposal system in accordance with regulations of the PA DEP.

3 If the subdivision involves only a part of the tract, the number of units shall be calculated based on the acreage for the part of the tract proposed for a Conservation Subdivision. If the tract is located in more than one zoning district, the number of dwelling units will be determined for each portion of the tract separately, based on the applicable zoning district, added together and then rounded to a whole number.

(E) *Density Bonus*.

1. Conservation Subdivisions are eligible for a five (5) percent density bonus for each additional ten (10) percent of the site, more than the minimum Open Space requirement in Section (B).4., that is permanently protected by conservation easement.

2. In the calculation of bonuses, a fraction shall be rounded to the next highest whole number. The density bonuses of this Section may be combined.

3. The provisions of this Section shall not be interpreted as guarantees of achievable density. Developments using bonus provisions shall be subject to all other applicable regulations of this Ordinance. These regulations or site-specific conditions may prevent maximum bonus density levels from being achieved due to the character of the land or surrounding uses.

(F) *Dimensions and Standards*.

1. The minimum Lot area in a Conservation Subdivision may not be less than 15,000 square feet, unless the Density Bonus provision in Subsection (E) above is applied whereby the minimum Lot area may not be less than 10,000 square feet.

2. The minimum setback and yard requirements in the R-1 District may be modified in a Conservation Subdivision to provide flexibility in the location of dwelling units relative to the characteristics and limitations of the site. Zero Lot lines are, however, prohibited.

3. The maximum allowable Building height permitted shall be the height specified in the R-1 District.

4. The maximum impervious coverage on a Lot shall be thirty (30) percent.

5. Lots may be irregular in size and shape if required to conform to the natural topography and features of the parcel (e.g., Lot lines follow an existing stone wall, stream, stand of mature trees or other natural dividing feature).

6. If agricultural uses are being maintained, Lots shall be configured in a manner that maximizes the useable area remaining for the agricultural uses with the buffers as required under Section 4.03 of this Ordinance between agricultural uses and residential structures.

(G) *Sewer and Water Utilities*.

1. *Sewer*.

a. Except as provided in Subsection (G)1.d. below, any tract proposed for a Conservation Subdivision shall be served by a central sewage system or community on-Lot disposal system. Such system shall be consistent with the preferred treatment and disposal methods stipulated in the Middlesex Township Act 537 Sewage Facilities Plan and shall comply with all applicable requirements of both the Middlesex Township Municipal Subdivision and Land Development Ordinance and the Pennsylvania Department of Environmental Protection (PADEP).

b. For systems proposed with a subsurface discharge or for spray irrigation systems, the allowable maximum number of dwelling units as provided in Section (D) shall be subject to reduction based upon the ability of the site to support the proposed system and proposed number of dwellings as per PADEP requirements. Soil test results and supporting information shall be provided to Township in sufficient detail to make a determination of the site's ability to adequately service the sewage needs of the proposed development.

c. All publicly operated sewage systems shall be owned, operated, and maintained by the Middlesex Township Municipal Authority.

d. Where the tract proposed for a Conservation Subdivision is located within a public sewage system service area established by the Middlesex Township Act 537 Plan, the proposed dwellings shall be served by the public sewage system, except as provided below. No on-site soil testing shall be required. However, the applicant shall provide a letter from the Middlesex Township Municipal Authority confirming the ability to provide service. Should public sewers not be available to the tract due to either inadequate conveyance capacity or treatment plant allocation/capacity, the requirements of Subsections (G)1., (G)2. and (G)3. Shall apply. Once conveyance capacity or treatment plant allocation/capacity become available, the proposed dwellings shall connect to the public sewage system.

2. *Water Supply*.

a. Dwellings within a Conservation Subdivision may be served by individual water supply wells located on each proposed Lot to be owned and maintained by the individual property owners, subject to approval by Township.

b. Alternatively, the tract may be served by a central water system to be owned, operated and maintained by the Middlesex Township Municipal Authority, subject to all applicable requirements of both the Middlesex Township Municipal Subdivision and Land Development Ordinance and PADEP Public Water Supply Manual.

c. Where the tract proposed for a Conservation Subdivision is located within a community water service area established by Middlesex Township Municipal Authority the proposed dwellings may be served by the community water system if such Authority agrees to this in writing. deems . The applicant shall provide a letter from the Middlesex Township Municipal Authority stating such approval.

(H) *Streets*.

1. The Street network in a Conservation Subdivision shall implement the municipal Official Map, when applicable, and be designed to:

   a. Minimize alteration of natural or historic features;

   b. Minimize crossings of Open Space areas;

   c. Minimize acreage of the site designated for Streets;

   d. Calm traffic speeds; and

   e. Promote pedestrian movement.

2. All Streets must conform with the design requirements of the Middlesex Township Subdivision and Land Development Ordinance relative to paving specifications, cartway design, horizontal and vertical alignment, sight distances, drainage, clear sight triangles, etc., except when waived by the Township Board of Supervisors.

(I) *Permanent Open Space*.

1. The Applicant shall be required to prepare a site plan identifying and delineating the site's required Open Space areas that shall be comprised of one (1) or more of the following features:

   a. FEMA Special Flood Hazard Area (SFHA), 100-year floodplains.

   b. Riparian buffers as required by Section 2.19 of this Ordinance.

   c. Slopes of twenty-five (25) percent and greater of at least 5,000 square feet of contiguous area.

   d. Wetlands that meet the definition used by the U.S. Army Corps of Engineers pursuant to the Clean Water Act.

   e. Closed depressions, sinkholes, caves, vistas, or other significant geologic features.

   f. Threatened or endangered species habitats.

   g. Archaeological and historic resources.

   h. Prime Agricultural Land and adjacent Agricultural Security Areas.

   i. Significant stands of mature trees shall be preserved pursuant to Subsection (L), Existing Tree and Vegetation Standards.

   j. Existing trails that connect the tract to neighboring areas.

2. Permanent Open Space may be used for:

   a. Conservation of land in its natural state;

b. Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;

c. Passive recreation;

d. Trail or path corridor, the use of which shall be limited to pedestrian, equestrian, non-motorized vehicles, and maintenance equipment;

e. Easements for drainage, access, sewer or water lines, or other public purposes.

3. The Township shall place particular emphasis on the Township Comprehensive Plan, Township Official Map, and Cumberland County Land Partnerships Plan when evaluating the applicants proposed Open Space features

4. Open space land within a Conservation Subdivision shall be contiguous to provide for large and integrated Open Space areas. Non-contiguous parcels of Open Space may be approved by the Township Board of Supervisors if necessary and/or desirable based upon consideration of the size of the project, the size of the Open Space parcels or the types of features included within the Open Space.

5. The Open Space shall not include areas within any Building Lot, road or Street Right-of-Way. However, Open Space may include areas within overhead power line easements or Rights-of-Way, underground utility transmission lines, pipelines and drainage easements.

6. Further subdivision or use for other than non-commercial outdoor recreation, conservation, agriculture or forestry shall be prohibited.

7. Open space required in a Conservation Subdivision shall be counted toward any recreation land dedication or recreation fee requirements required under the Middlesex Township Subdivision and Land Development Ordinance.

(J) *Open Space Design Requirements*.

1. At least seventy-five (75) percent of the required Open Space shall be contiguous within the development and contiguous with existing Open Space on adjacent properties where applicable. A twenty (20) foot minimum width of land shall be maintained between areas to be considered contiguous lands and shall not be counted as part of the required seventy-five (75) percent contiguous Open Space area(s).

2. Residential accessory structures, such as but not limited to sheds, garages or any commercial use shall not be permitted in the Open Space area.

3. All public Open Space shall be accessible from a public Street or public pedestrian walkway. When applicable, public pedestrian walkways or trails shall be coordinated with the Middlesex Township Official Map and the Cumberland County Land Partnerships Plan. The Township may require an easement for a public trail system. The minimum width of the access to the Open Space shall be twenty (20) feet.

4. Further subdivision of Open Space lands for development, or their use for other than the permitted uses listed in Section (I)2., shall be prohibited.

5. Open space intended for recreational or public use shall be easily accessible to pedestrians and conform to all state and federal regulations for handicapped accessibility.

6. Where practical, linear trails shall connect to larger Open Space tracts or parks. Where strips of Open Space land are designed as separate, noncontiguous parcels, constituting part of the required minimum Open Space, these areas shall have a length-to-width ratio less than four to one (4:1), except such areas that are specifically designed as pedestrian ways, in which case they shall form a contiguous trail system.

7. In developments with cul-de-sacs, access from public Streets to pedestrian and bike pathways shall be provided from the cul-de-sac bulb area.

8. All new dwellings shall be located not less than the following minimum distances from the following features:

   a. Rights-of-Way for Streets external to the development: Eighty (80) feet.

   b. Conservation subdivision property boundaries: Fifty (50) feet.

   c. Existing Buildings or barnyards capable of housing livestock: One hundred (100) feet.

   d. Active recreation areas such as courts or playing fields (not including tot-Lots): One hundred (100) feet.

9. Views of residential Lots from existing Streets external to the development and for abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the landscaping requirements of the Middlesex Township Subdivision and Land Development Ordinance.

10. For subdivisions of five (5) Lots or more, driveways shall be accessed from interior Streets, rather than from roads bordering the tract.

11. A combination of at least forty (40) percent of all dwelling units shall either directly Abut Open Space or the front façades of the dwellings shall directly face towards Open Space.

(K) *Ownership and Maintenance*. Unless accepted for dedication or otherwise agreed to by the Township or a private non-profit land conservancy, the cost and responsibility of maintaining the required Open Space and any facilities located thereon shall be borne by the development's property owners and/or homeowners' association. A written description and plan for the disposition of ownership of Common Open Space land designating those areas to be offered for dedication or to be owned by the specific form of organization proposed shall be provided. The Common Open Space shall be accomplished through one of the following:

1. The Township shall not be obligated to accept dedication of the Open Space.

2. With permission of the Township, and with appropriate deed restrictions in favor of the Township and in language acceptable to the Township Solicitor, the developer may transfer ownership of the Open Space or a portion thereof to a private, nonprofit organization, among whose purposes is the preservation of Open Space land, natural resources, or both. The organization shall be a bona fide conservation organization with a perpetual existence. The conveyance shall contain appropriate provision for reversion or retransfer if the organization is unable to maintain the land, and the organization shall enter into a maintenance agreement with the Township.

3. The developer shall provide for and establish an organization for the ownership and maintenance of the Open Space which shall be generally consistent with the requirements for unit owners' associations found in the Pennsylvania Uniform Condominium Act, 68 Pa.C.S. 3101 et seq. If such an organization is created, the agreements of sale and deeds for all Lots shall contain the following requirements in language acceptable to the Township Solicitor.

   a. Such organization shall not dispose of the Open Space by sale or otherwise, except to the Township, unless the Township has given prior written approval. Such transfer shall be made only to another organization which shall maintain the Open Space in accordance with this Ordinance.

   b. The organization and all Lot owners shall enter into a maintenance agreement with the Township and shall agree to be bound by the provisions of Article VII of the Pennsylvania Municipalities Planning Code relating to the maintenance of deteriorating Open Space by municipalities.

   c. The Township may require the establishment of a reserve fund to provide for maintenance of or capital improvements to the Open Space.

(L) *Existing Tree and Vegetation Preservation*.

1. The character and extent of existing trees and vegetation on a site shall be fully and accurately described on the plan.

2. Existing native trees and vegetation within a proposed development shall be preserved to the maximum extent possible. Proposed site improvements shall be located, designed and constructed to minimize the loss of existing trees and vegetation, particularly native woodlands, hedgerows and specimen trees.

3. The subdivision shall be designed to preserve existing native trees and vegetation along roadways, property lines and lines occurring within a site such as streams, swales, stone fences and hedgerows. Such lines and the native vegetation associated with them shall be preserved as buffers between adjacent properties and between areas being subdivided within a property. Preservation shall include ground, shrub, understory and canopy vegetation.

4. Trees, with a caliper of six (6) inches or more in Diameter at Breast Height (DBH), shall not be removed unless they are located:

   a. Within the proposed cartway or sidewalk portion of the Street Right-of-Way.

   b. A distance of twenty-five (25) feet or more from the foundation area of a proposed Building.

5. Every existing tree, six (6) inches or more in DBH, that is removed because of a land disturbing or land developing activity shall be replaced on a 1:1 basis with a native tree that has the same maximum height and growth rate of the tree to be removed. Where large maturing trees are required and overhead utility lines exist, smaller native trees shall be substituted. If the number of trees removed that are at least six (6) inches DBH cannot be identified, each stump (if available) shall be inspected and the width of each tree removed shall be determined by an ISA certified arborist.

6. The replacement trees shall be selected from the Middlesex Township Subdivision and Land Development Ordinance. The trees shall be not less than two (2) inches caliper. The trees shall be at least ten (10) feet tall after planting and trimming. Trees shall not be planted within the tree protection zone of another tree. A maximum of thirty (30) percent of the required trees may be replaced as evergreen trees.

7. Where ten (10) or more replacement trees are required, not more than fifty (50) percent of the replacement trees shall be of the same species of tree without the approval of the Township

8. The replacement trees may be placed on the site at any location selected by the property owner as long as such location does not violate any other provision of this Ordinance or any other applicable ordinance or regulation of the Township.

9. Any replacement tree which is not alive or healthy, as determined by the Township, or which subsequently dies due to construction activity within one (1) year after the date of project closure, shall be removed by the Applicant and replaced with a new healthy tree meeting the same minimum size requirements within six (6) months of removal.

10. Where existing trees are removed along the Street Right-of-Way, supplemental planting of Street trees shall be required in accordance with the Street tree planting requirements specified under Section 4.03 of this Ordinance.

11. In areas where trees are retained, the original grade level shall be maintained, if possible, so as not to disturb trees.

12. No clearing or earth disturbance (except for soil analysis for proposed sewage disposal systems) shall be permitted on a site before the completion of subdivision and land development agreements. The determination of sight distance along roadways shall be made graphically and not by clearing on-site prior to final plan approval.

13. During construction, no clearing shall be permitted on a site beyond that minimally necessary for the specific construction activity to be undertaken.

14. Areas of a site which are to be preserved and areas which do not need to be disturbed for construction of required subdivision site improvements (roads, utilities, stormwater management facilities, etc.) shall be protected with a limit of disturbance line.

    a. The limit of disturbance line shall be indicated on the improvements plan.

    b. No construction activity, grading or disturbance shall be permitted beyond the limit of the disturbance line.

    c. Limit of disturbance lines shall also be indicated for the protection of individual specimen trees, groups of trees and other natural features to be retained or preserved with a development.

    d. Limit of disturbance lines shall be clearly marked in the field prior to the start of construction activities. The lines shall be indicated by use of snow fencing, flagged stakes or other means acceptable to the Township for the specific condition or feature to be protected. The lines shall be maintained throughout the period of construction activity.

Section 4.07 Donation Containers, Unattended

(A) Donation containers are exempt from a zoning permit, however, the following regulations apply to donation containers that accept new or gently used clothing items:

1. *Size*. The donation Container may not be larger than seven (7) feet tall, six (6) feet wide or six (6) feet long.

2. *Maximum Number*. Donation containers are limited to a maximum of two (2) per property located within the Side Yard and Rear Yard areas and may not exceed a Use area within these locations of one hundred twenty (120) square feet.

3. *Location and Placement*. Donation containers are only permitted on civic, institutional, and commercial properties forty thousand (40,000) square feet Lot area or greater and may only be placed on such properties with written permission from the Property Owner. Such written permission shall be made available to the Township for review upon request.

4. *Maintenance*.

   a. Donation container items shall be collected on a regular basis or within forty-eight (48) hours following a Property Owner's request.

   b. Donated items or any refuse may not be left outside the containers for more than twenty-four (24) hours and shall be removed by the container Owner/operator or Property Owners.

5. *Identification*. Each donation container shall be properly identified and labeled with the following information:

   a. Name and telephone number of the Owner/operator.

   b. Entity responsible for collecting donated items and any refuse left outside the container.

   c. Type of donated items accepted and a statement prohibiting liquids and dumping.

Section 4.08 Driveways

(A) Except for residential developments approved as part of a Planned Community, no driveway shall be located nearer than five (5) feet from a parallel property line.

(B) No driveway shall provide access to a Lot located in a zoning district other than the district in which such driveway is located.

Section 4.09 Encroachments

(A) The following regulations are intended to assist applicants and business owners in establishing attractive and safe encroachments that benefit both the business community and the citizens that enjoy those spaces. Furthermore, it is the intent of these regulations to ensure that permitted encroachments do not impede the public's access to and enjoyment of Rights-of-Way and that the free ingress and egress to or from any Building fronting on any public thoroughfare is not impaired or such that any unsafe condition results.

1. *General Requirements*.

   a. The Township's goal is to maintain the highest standards of accessibility and safety while achieving an attractive and functional design within its Mixed-Use and commercial areas.

   b. In general, encroachments shall complement public Use and improvements. In no case shall encroachments exclude the public from any public Sidewalk or Street.

   c. Allowed encroachments shall comply with all requirements of this Ordinance.

2. *Location and Dimensional Requirements*.

   a. Encroachments may be allowed where it can be determined by the Zoning Officer that the Encroachment would not result, individually or cumulatively, in a narrowing of the Sidewalk such that important functional attributes of the Township, (e.g., ability of pedestrians to stroll side-by-side and to pass comfortably for significant stretches, lingering and window shopping) are not jeopardized. The location and dimensions of any item located in a public place shall meet the minimum guidelines set forth herein and any other applicable local, state or federal law or regulation.

   b. Encroachments shall maintain a clear path of no less than five (5) feet.

   c. Encroachments shall not block safe access to businesses, parking spaces, bike stalls, or other spaces required by the Township Building Code.

   d. Encroachments shall not encroach into the areas near corners of Sidewalks or where crosswalks are present. This area shall be defined with a fifteen (15) foot setback area, beginning near the crosswalk or curb cuts.

   e. Encroachments shall not intrude onto other private properties.

3. *Maintenance and Operational Requirements*.

   a. Maintenance of encroachments shall be the sole responsibility of the Owner of the property upon which the encroachment occurs.

   b. Any item permitted to be placed in the public Right-of-Way shall be maintained in a safe manner so as not to obstruct pedestrian access to public sidewalks, access ramps or doorways. Movable items, such as chairs, shall always be positioned to prevent obstruction of access routes. The permitted item shall always be relocated to the appropriate location if moved by patrons.

   c. All materials shall be well maintained without stains, rust, tears, or discoloration. Materials that show Signs of significant wear or age shall be replaced.

4. *Outdoor Displays*. Outdoor displays shall be limited to single items or object displays or examples of items or goods sold in the store and shall comply with all other standards specified herein.

5. *Umbrellas and Outdoor Furniture*. Umbrellas shall be installed and maintained to provide pedestrian clearance by maintaining seven (7) feet of clearance from the sidewalk to the lowest edge of the umbrella. Umbrellas shall not exceed a maximum Height of nine (9) feet from the base to the top portion of the pole.

6. *Planters and Landscaping*.

   a. Private planters shall be placed against Buildings to accent Building entrances and openings. Private planters shall complement but not interfere with or be placed adjacent to Township-maintained planters located along the Street curb. Planters shall not be used to define seating areas or otherwise cordon off public Sidewalk for private Use.

   b. Plant material shall always be maintained in a viable condition.

   c. Debris or litter caused by planters or nearby landscaping shall be maintained or cleaned by the responsible business or property Owner. Debris, stains or litter shall be cleaned or removed by the responsible business or property Owner.

7. *Other Encroachment Types*. Other types of encroachments, not anticipated by this Ordinance, may be considered and permitted by the Township, but shall comply with the purpose and intent of these requirements.

Section 4.10 Lighting

(A) The provisions of Section 711, Site Lighting, of the Middlesex Township Subdivision and Land Development Ordinance, are incorporated by reference in their entirety and made a part of this Ordinance and shall be applicable to all outdoor lighting installed and/or replaced in the Township after the effective date of this Ordinance, irrespective of the need for subdivision and/or land development plan approval. Accordingly, any relief from the provisions of this Ordinance and the provisions of Section 711 of the Middlesex Township Subdivision and Land Development Ordinance incorporated herein, may only be granted by a variance approved by the Middlesex Township Zoning Hearing Board in accordance with the procedures and standards set forth in Section 1.14 of this Ordinance.

(B) A lighting fixture or lighting application shall be made to conform with the requirements of Section 711 of the Middlesex Township Subdivision and Land Development Ordinance when any one of the following conditions apply:

1. It is deemed by the Board of Supervisors to create a safety hazard;

2. It is replaced by another fixture or fixtures or is abandoned or relocated;

3. The number of fixtures is increased by fifty (50) percent or more; or

4. There is a change in use on the property where the lighting fixture or lighting installation exists.

Section 4.11 Neighborhood Design Development

(A) *Purpose*. In the MU-2 District, it shall be optional to utilize Neighborhood Design Development (NDD) on a parcel or contiguous parcels of land having a total area of thirty (30) acres or more. The purpose of the NDD is to encourage:

1. Innovation and promote flexibility, economy, and ingenuity in development generally consistent with the applicable provisions of the Pennsylvania Municipalities Planning Code, including Article VI Section 603.(c)(5), the Cumberland County Comprehensive Plan, and the Middlesex Township Comprehensive Plan.

2. Compatible mixed-use growth and development at appropriate sizes, densities and intensities in appropriate locations.

3. An efficient use of land, resulting in vertical and horizontal mixture of uses, smaller networks of utilities and Streets and lower housing or infrastructure construction and maintenance costs.

4. A balance between neighborhood form and function.

5. Safe and convenient pedestrian, bicycle and vehicle circulation.

6. Persons to work, shop, gather and recreate in and around the neighborhood within which they live.

7. The creation of a sense of place and a community spirit that promotes social interaction.

(B) A proposed NDD shall be permitted by the Board of Township Supervisors of the Township of Middlesex subject to the requirements and procedures of this Ordinance and the Master Plan Development Plan standards specified under Subsection (D) below. Said Master Development Plan shall comply with the requirements of this Section and the preliminary and/or final subdivision and land development plan approval requirements of the Middlesex Township Subdivision and Land Development Ordinance.

(C) *Interpretation and Application*.

1. The provisions of this Ordinance and the Middlesex Township Subdivision and Land Development Ordinance shall apply to NDD except to the extent specifically provided for in this Section. In the event of a conflict between the provisions of this Section and either this Ordinance or the Subdivision and Land Development Ordinance, the provisions of this Section shall prevail and apply.

2. Any standard set forth elsewhere in this Ordinance or Middlesex Township Subdivision and Land Development Ordinance requiring that certain Lots or uses be provided with additional setback, buffer yard (and screening), or separation distances, from adjoining or adjacent residential Lots or uses beyond those set forth in this Section shall not apply in instances where both such certain Lot or use and such residential Lot or use are located within NDD.

(D) *Neighborhood Design Development Site Standards*.

1. *Conceptual Master Plan*.

a. All uses, development and Open Space areas must be designed and constructed as coordinated, cohesive and integral components of NDD. Accordingly, the initial final subdivision or land development plan for NDD shall include a plan sheet conceptually depicting the proposed or anticipated ultimate build-out and development of NDD (i.e., "Conceptual Master Plan"). The Conceptual Master Plan shall show relationships among the various proposed or anticipated Lots, buildings, uses parking areas, vehicle and pedestrian routes, Open Space areas and amenities. The Conceptual Master Plan must show the approximate locations and uses of buildings and Lots, as well as the approximate locations of parking areas, vehicle and pedestrian routes, Open Space areas and amenities. The Conceptual Master Plan may include a range of permitted uses, as opposed to identifying each specific use; however, the Conceptual Master Plan shall show proposed uses in

enough detail to verify that the ultimate build-out and development of NDD is intended to function cohesively as an integrated development. The Conceptual Master Plan may be revised with each subsequent subdivision or land development plan provided that it is included as a plan sheet as part of a final plan for any phase and still complies with the applicable provisions of the Section. Subdivision and/or land development plans for portions of the development proposed under the Conceptual Master Plan may be submitted and approved as preliminary/final plans pursuant to the requirements of the Middlesex Township Subdivision and Land Development Ordinance.

b. The Conceptual Master Plan shall be prepared by a Registered Design Professional. To the extent practical and feasible, the Conceptual Master Plan shall include the following:

(1) Drawn at a scale of not less than one (1) inch equals two hundred (200) feet.

(2) The total gross area (acreage) of entire Neighborhood Design Development site.

(3) Anticipated acreage of impervious area and its percentage of the total Gross Land Area.

(4) Anticipated acreage of Open Space and its percentage of the total Gross Land Area.

(5) Anticipated number of Lots for each type of residential use.

(6) Anticipated total number of residential dwelling units.

(7) Anticipated number of dwelling units for each type of residential use and percentage in relation to the total number of residential units.

(8) Anticipated acreage of each type of nonresidential use.

(9) Anticipated percentage of the Gross Land Area proposed for nonresidential use.

(10) General vehicular and non-vehicular circulation patterns for the entire tract.

(11) Points of access to a NDD site.

(12) General location of all proposed Open Space, the proposed use of each, and the facilities that are anticipated to be placed thereon.

(13) Typical Lot and Building layouts and landscape features for each category of dwelling unit.

(14) Boundaries and conceptual depiction of the location and proposed use in each area of NDD which shall include depictions of each residential and nonresidential use.

(15) General location, dimensions of Street and Alley Rights-of-Way of the proposed road network.

(16) Conceptual Lot lines.

(17) General location of proposed public utilities.

(18) Schematic groupings of buildings and structures including a schedule of gross floor areas and heights.

(19) Schematic provision of storm water management facilities and general locations.

c. A Traffic Impact Study prepared in accordance with the applicable provisions of Section 717 of the Middlesex Subdivision and Land Development Ordinance, shall be submitted as part of the Conceptual Master Plan.

2. *Minimum Area*. The minimum number of acres that may be developed as a Neighborhood Design Development site is thirty (30) contiguous acres.

3. *Required Utilities*. The Neighborhood Design Development site shall be serviced by public water service and public sewer services approved by the Pennsylvania Department of Environmental Protection (DEP).

4. *Maximum Impervious Area*. The maximum impervious area of a NDD site is sixty-five (65) percent.

5. *Minimum Open Space*. The minimum amount of Open Space required as part of a Neighborhood Design Development shall be twenty-five (25) percent of a NDD site area. See Section 4.11(M).

6. *Required Dwelling Mix*.

a. The NDD site must include a minimum of three (3) different categories of permitted dwelling types (i.e., single-family detached dwelling, single-family semi-detached dwelling, single-family attached dwelling or multi-family dwelling).

b. No one (1) permitted dwelling type shall be less than ten (10) percent or more than sixty (60) percent of the total number of dwelling units in NDD. For Neighborhood Design Developments that include four (4) or more different categories of dwelling types, the percentage set forth in this subsection shall apply only to three (3) of the dwelling types.

(E) *Permitted Uses*.

1. Uses permitted in the NDD shall be those permitted under the MU-2 District as shown in Table 3.02.1 and as further regulated under this Ordinance.

2. Notwithstanding the requirements of Section 3.03 Unlisted Uses of this Ordinance, other residential or non-residential uses not specifically provided for under Article 3 Zoning Uses of this Ordinance may be permitted by right provided that such uses meet the following conditions:

a. The proposed Use shall be consistent with and meet the stated purpose and intent of the NDD.

b. The proposed Use shall be consistent with and uphold the general form, function, and design character of the neighborhood within which the Use is being proposed.

c. The Use shall be similar to and compatible with the permitted uses in the NDD in which the subject property is located and in no way is in conflict with the general purposes and intent of this Ordinance.

d. The Use shall consider the community development goals and objectives of the Middlesex Township Comprehensive Plan.

3. Notwithstanding the requirements of Section 3.01(A), 3.01(B), 3.05(A)10., of this Ordinance, mixed-uses, consisting of combinations of residential or nonresidential uses that are permitted in the Neighborhood Design Development shall be permitted to occupy the same building or lot, provided that each building complies with all applicable separation distance and requirements and the lot complies with all applicable lot and yard requirements of this Ordinance. Uses shall be permitted to be mixed both on the horizontal and vertical planes.

(F) *Lot and Building Standards*. Notwithstanding the Lot and Building standards specified under Table 2.12, Mixed-Use Village District (MU-2) Bulk and Area Regulations, of this Ordinance, as well as the vehicular access or frontage requirements along Arterial or Collector streets for certain uses as specified in Sections 3.04, 3.05, and 3.06 of this Ordinance, the following standards shall apply to NDD in the MU-2 District.

1. Frontage required onto improved Street, Alley, or Open Space.

a. In lieu of the frontage requirements specified under of Section 4.20 of this Ordinance, a proposed:

(1) New Lot shall be permitted to directly adjoin (i.e., Abut) and have frontage along:

(a) A Street or Alley Right-of-Way; or

(b) An Open Space Lot.

(2) Land development or principal Building shall be permitted to be on a Lot directly adjoining and having frontage along:

(a) A Street or Alley Right-of-Way; or

(b) An Open Space Lot.

b. For purposes of this Section, the front Lot line or front yard, respectively of a Lot that adjoins:

(1) A Street or an Open Space Lot, shall be the Lot line or yard adjoining the Street or Open Space Lot, as applicable; and

(2) An Alley but does not adjoin a Street or an Open Space Lot at any point, shall be the Lot line or yard adjoining the Alley.

c. The corner Lot provisions of Section 4.04 of this Ordinance shall not apply.

2. All Lots shall have access to at least one (1) Street Right-of-Way or Alley.

3. Flag Lots shall be permitted as long as the Lot has at least twenty (20) feet of frontage and access in compliance with Subsections (F)1. and (F)2.

4. The area and dimensional requirements shall be as follows:

a. *Minimum Lot Area*.

(1) Single-family detached dwellings: 2,500 square feet per dwelling unit.

(2) Single-family semi-detached dwellings, two-family dwellings and single-family attached dwellings, end units: 1,400 square feet per dwelling unit. Single-family attached dwellings, interior units: 1,200 square feet per dwelling unit.

(3) All other uses including buildings with Mixed-Uses (i.e., residential and nonresidential): No minimum Lot area.

b. *Minimum Lot Width*.

(1) Single-family detached dwellings and all other uses including buildings with Mixed-Uses (i.e., residential and nonresidential), except as set forth below: Forty (40) feet.

(2) Single-family semi-detached dwellings, two-family dwellings and single-family attached dwellings, end units: 20 feet per dwelling unit.

(3) Single-family attached dwellings, interior units: 16 feet.

c. *Minimum Yard Setbacks*.

(1) *Front*.

(a) Along a Local Street or Alley, or An Open Space Lot located Between and Adjoining the Lot and a Street or Alley: Five (5) feet.

(b) Along a Collector Street: Ten (10) feet.

(c) Along an Arterial Street: Fifteen (15) feet, notwithstanding the setback requirement specified under Section 4.02(A) of this Ordinance.

(2) *Side*.

(a) Single-family detached dwellings and all other uses including Mixed-Uses (i.e., residential and nonresidential) in detached principal buildings, and detached accessory buildings, except as set forth below: Five (5) feet.

(b) Single-family semi-detached dwellings, two-family dwellings and single-family attached dwellings and all other uses including Mixed-Uses (i.e., residential and nonresidential) in attached principal buildings, and attached accessory buildings:

i. Attached side (i.e., interior side): Zero (0) feet.

ii. Unattached side (i.e., exterior side): Five (5) feet.

(3) *Rear*. All uses and accessory buildings: Five (5) feet.

(4) *Outdoor Seating and Dining Areas*. Three (3) feet minimum Yard Setback requirement.

d. *Permitted Projections into Required Yard Setbacks*.

(1) Entry stoops, steps and ramps may extend into any required Yard Setback a maximum of fifty (50) percent of the required Yard Setback.

(2) Unenclosed porches, decks and patios may project into any required Yard Setback a maximum of fifty (50) percent of the required Yard Setback.

(3) Typical architectural features, including cornices, eaves, gutters, bay windows, windowsills, chimneys and decorative stone, brick or other façade material may project a maximum of two (2) feet into any required Yard Setback.

e. *Maximum Building Height*.

(1) Single Family Detached, Single Family Semi-Detached (Duplex), and Single Family Attached (Townhouse) Dwellings: Forty (40) feet

(2) Multi-Family Dwellings, Mixed-Use (residential and nonresidential) buildings and nonresidential buildings:

(a) *Habitable Space*: Fifty (50) feet.

(b) *Architectural and Non-habitable Features*: Sixty-five (65) feet.

(3) *Accessory Buildings and Structures*. Same as maximum Building height limitation for applicable principal use or structure.

f. *Maximum Impervious Area*.

(1) Single-family detached dwellings: Seventy (70) percent.

(2) All other Lots: None, except that the total maximum impervious area limitation of Subsection (D)4. shall apply to the entire NDD site.

(G) *Parking Standards*.

1. *Minimum Parking Spaces*. Notwithstanding the off-street parking requirements specified under Section 4.15(C) of this Ordinance, the following off-street parking requirements shall apply:

a. Single Family Detached and Single Family Semi-Detached (Duplex) Dwellings: Two (2) spaces per dwelling unit.

b. For all other permitted uses, off-street parking requirements shall be determined using the Parking Demand Analysis requirements specified under Section 4.15(D) of this Ordinance. In addition to these requirements, the following areas shall be permitted in the analysis:

(1) Areas which may be computed as open or enclosed parking spaces include any private garage, carport, driveway, parking Lot and any other on-Lot or off-street area available for parking.

(2) A Street Right-of-Way where on-Street parking is designed and permitted may be computed as open parking spaces for purposes of determining compliance with the minimum number of required parking spaces.

2. *Size of Spaces*. Notwithstanding the parking space dimensional requirements specified under Section 4.15(F) of this Ordinance, an off-street parking space shall have a minimum area of one hundred and sixty-two (162) square feet with minimum dimensions of nine (9) feet wide and eighteen (18) feet long, exclusive of access drives or aisles.

4. *Access Setbacks*. Parking area entrances/exits shall not be located within thirty (30) feet from Street or Alley intersections with Alleys.

5. *Location and Ownership*.

a. Required parking spaces must be located within six hundred (600) feet of the entrance to a Building or use that is regularly used by patrons or occupants, and directly accessible by pedestrians using sidewalks or other designated pedestrian pathways or trails. The six hundred (600) foot distance limitation may be increased to eight hundred (800) feet for nonresidential uses if the following conditions are met:

(1) Signs are installed to identify such offsite parking spaces as being available for use by patrons or occupants of such nonresidential use.

(2) Signs that notify patrons of the availability of such offsite parking spaces shall be installed within or at the entrances to parking area serving the nonresidential use and directional signs shall be installed at appropriate locations between the nonresidential use and the offsite parking spaces so as to direct motorists to such offsite parking spaces from the nonresidential use.

(3) A sidewalk or other designated pedestrian pathway or trail is established to allow pedestrians to walk between the parking area and such nonresidential use.

b. Parking spaces need not be on the same Lot or in the same ownership as the use to which they accessory, but the spaces shall be subject to deed restriction, binding the owner and his heirs and assigns to maintain the required number of spaces available either:

(1) Throughout the existence of such use to which they are accessory; or

(2) Until such spaces are provided elsewhere.

6. *Parking Lot Setbacks*.

a. Parking Lots of five (5) or more spaces shall be set back at least five (5) feet from any Lot line. There shall be no setback required from any Lot line adjoining an Alley.

b. In parking Lots with five (5) or more parking spaces where spaces are oriented toward and will result in vehicle lights shining onto a single-family detached dwelling, single-family semi-detached dwelling, two-family dwelling or single-family attached dwelling on an adjoining Lot, such parking spaces shall be screened from the adjoining Lot by a fence, wall or landscaping with a height of at least four (4) feet.

(H) *Loading Standards*. Notwithstanding the requirements specified under 4.15(G) Off-Street Loading and Unloading of this Ordinance, the following shall apply:

1. Off-Street parking Lots and areas shall be permitted to be used as loading berths, as long as such loading is conducted during hours when business operations open to the public are suspended.

2. *Location and Access*. Off-Street loading berths and access to such berths shall be located at least twenty-five (25) feet from the nearest point of intersection of any two (2) Streets, and five (5) feet from the nearest point of intersection involving an Alley.

3. Off-Street loading berths shall be set back at least five (5) feet from any Lot line. There shall be no setback required from any Lot line adjoining an Alley.

(I) *Driveway and Access Standards*.

1. The driveway access and setback requirements specified under Sections 4.02(B) and 4.08(A) of this Ordinance shall not apply.

2. Driveways onto Arterial Streets shall comply with the applicable provisions of PennDOT or the Middlesex Subdivision and Land Development Ordinance.

(J) *Sign Standards*.

1. See Section Article 5 of this Ordinance.

2. Additionally, the following signs shall also be permitted within a Neighborhood Design Development site.

a. Changeable Message Signs.

b. *Neighborhood Design Development-Welcome Signs*. Large, freestanding signs erected during the period of construction and/or development of NDD site by the contractor/developer or agent, which upon completion of the time frame listed below and removal of the initial development-related message/content, the Sign shall be permitted to contain NDD name, logo and could also contain the phrase "Welcome to" or similar neighborhood development message, and shall be permitted to include advertising for businesses and other uses that are part of the approved Neighborhood Design Development site shall be permitted in accordance with the following provisions:

(1) The signs shall be permanent, except that the initial message/content shall be removed within thirty (30) days of the sale or rental of the last Lot or Building space or completion of the proposed construction in NDD site.

(2) The area of any one Sign shall not exceed one hundred fifty (150) square feet and the height shall not exceed twenty (20) feet.

(3) The signs shall be permitted to be illuminated.

(4) There shall be no more than two Neighborhood Design Development-welcome signs per Neighborhood Design Development site.

(5) The minimum lateral distance between Neighborhood Design Development-Welcome Signs shall be five hundred (500) feet.

c. *"A-frame" Signs*. Freestanding, portable, temporary signs consisting of two (2) faces connected and hinged at the top and whose messages are generally targeted to pedestrians shall be permitted in accordance with the following provisions:

(1) *Maximum Number of Signs*.: 1 Sign per establishment. Additionally:

(a) For the purposes of this subsection, a parking area or structure shall be considered an establishment.

(b) An "A-frame" Sign shall not count toward the maximum permitted number of freestanding signs.

(2) *Maximum Sign Area*. Seven (7) square feet.

(3) *Maximum Height*. Three and one-half (3.5) feet.

(4) *Sign Placement*.

(a) If a Sign is located on a public or private sidewalk, a minimum of thirty-six (36) inches of unobstructed sidewalk clearance must be maintained between the Sign and any Building or other obstruction.

(b) The Sign must be located on or near the premises, and within twelve (12) feet of the primary public entrance, of the establishment it advertises. For the purposes of this subsection, a public entrance includes a vehicular entrance into a parking area or structure.

(c) The signs shall be weighted, temporarily secured, or strategically placed to avoid being carried away by high winds.

(5) Landscaping for Signs as required under Article 5 is not required for "A-frame" signs.

(6) A Sign permit, as required under Article 5, shall not be required for "A-frame" signs.

d. *Wayfinding Signs*. Permanent, off-premises or on-premises signs, located in a Neighborhood Design Development, which primarily provide wayfinding information such as distances or orientation information to businesses, uses, and

other destinations, areas and places of interest in a Neighborhood Design Development, from a Street or Alley shall be permitted in accordance with the following provisions:

(1) *Maximum Number of Signs*. Four (4) signs per block between any Street or Alley intersection.

(2) *Maximum Sign Area*. Twelve (12) square feet.

(3) *Maximum Height*. Ten (10) feet.

(4) *Information*. Sign copy is limited to name and/or logo of NDD and the destination/use distance and/or directional information. Multiple destinations/uses on one (1) Lot must share a wayfinding Sign. An additional two (2) square feet per face is permitted for each destination/use.

(5) *Sign Placement*.

(a) Signs shall be permitted to be located in the Street Right-of-Way, or located on private property, including upon a Building, with written consent of the applicable owner.

(b) Signs shall be located at Street or Alley intersections a maximum distance of one (1) mile from the use/destination.

(6) Landscaping for Signs as required under Article 5 is not required for a wayfinding Sign.

e. *Lots Adjoining Multiple Streets or Alleys*. Lots adjoining on more than one (1) Street, including Alleys, shall be permitted to have signage as set forth in Table 1 along each adjoining Street and Alley. Along one Street, Sign area shall be the maximum permitted Sign area set forth in Article 5, but for each additional Street or Alley, the maximum permitted Sign area shall be reduced by fifty (50) percent.

(K) *Fence and Wall Standards*. The maximum height of a fence shall be eight (8) feet in any Side or Rear Yard.

(L) *Trees and Shrubs in Street Rights-of-Way Standards*.

1. Street trees and shrubs shall be permitted to be planted and maintained in a Street Right-of-Way in accordance with Subsection 4.11(S).

2. At any time, however, the Township has the right to remove or trim any tree, shrubbery or landscaping within its Street Right-of-Way that the Township determines in its sole discretion presents a dangerous condition without any notice or liability to the owner of the adjoining property or applicable Homeowners Association or Condominium Association. This provision shall appear in the covenants or declarations applicable to property being developed within any Neighborhood Design Development.

(M) *Open Space Standards*.

1. *General Standards*.

a. The location and layout of the Open Space shall be designed and configured to achieve the following:

(1) Serve residents of NDD site and/or the general public and achieve at least one (1) of the following objectives, and the applicant shall demonstrate those specific measures employed to achieve the applicable objective(s):

(a) Provision of usable areas that are conveniently accessible to residents within NDD site and/or the general public;

(b) Integration of greenbelts and trails throughout NDD site that link residences with onsite or adjoining parks, schools, businesses, or other similar features;

(c) Protection of natural resources (e.g., streams, ponds, wetlands, steep slopes, woodlands, unique geologic features, wildlife habitats, aquifer recharge areas, prime agricultural soils, etc.); or

(d) Protection of historical and/or archaeological sites.

(2) Have a width of not less than ten (10) feet.

b. Areas devoted to stormwater management facilities shall be permitted to be included upon not more than eighty (80) percent of the minimum required Open Space area where such facilities are integrally incorporated into the overall Open Space design using best management practices to:

(1) Promote recharge of the groundwater system;

(2) Be available and appropriate for active or passive recreational use or scenic enjoyment; and

(3) Otherwise conform to the purposes, standards, and criteria for Open Space set forth in Subsection (M)1.a.

2. *Ownership and Maintenance of Open Space*. The Open Space ownership and maintenance standards specified under Section 4.16(D)5 of this Ordinance shall apply.

3. Required Open Space and associated recreation facilities shall be credited towards the total amount of land or facilities required to be dedicated for recreational use required by Section 710 of the Middlesex Township Subdivision and Land Development Ordinance, payment of fees in lieu of dedication, for NDD site. The value of any recreation facility or improvement constructed within the Open Space area shall be permitted to count toward any required recreation land or fee required by Section 710 of the Middlesex Subdivision and Land Development Ordinance. These recreation fee or land credits shall be permitted to carry forward from phase to phase.

4. The payment of fees in lieu of dedication or provision of recreation land, shall be permitted pursuant to by Section 710 of the Middlesex Subdivision and Land Development Ordinance in the amount in effect on the date of adoption of this Subsection. The fee attributable to

each dwelling unit shall be permitted to be paid in conjunction with issuance of the Building permit for that dwelling unit.

5. A combination of required Open Space, recreation land or facilities dedicated or constructed, and fees in lieu of dedication or construction, required by Section 710 of the Middlesex Subdivision and Land Development Ordinance shall be permitted to satisfy recreation land dedication or facility construction requirements of Section 710.

6. The requirements of Section 710.B.6 of the Middlesex Subdivision and Land Development Ordinance shall not apply.

(N) *Street and Alley Standards*. See Section 703 of the Middlesex Subdivision and Land Development Ordinance, except as follows:

1. *Existing Streets*. Notwithstanding Section 703.A.10 of the Middlesex Subdivision and Land Development Ordinance, whenever a subdivision or land development within NDD site adjoins a Street that is owned by PennDOT, improvements including, without limitation, curbing, sidewalks, widening and installation of drainage facilities shall be made only to the extent required by PennDOT to facilitate development of NDD site.

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2. *Frontage and Access*. In lieu of the frontage and access standards of Section 703.A.11 of the Middlesex Subdivision and Land Development Ordinance, the requirements of Subsection (F) Lot and Building Standards of this Section shall apply.

3. *Street Alignment*. In addition to the standards of Section 703.H.3 of the Middlesex Subdivision and Land Development Ordinance, straight portions of the Street must be tangent to the beginning or ending of curves and the tangent length shall be a minimum of ten (10) feet. Intersections may connect radially to curves in cross Street centerlines provided minimum sight distance is maintained.

4. *Cul-de-Sac or Dead-End Streets*. In lieu of the prohibition set forth in Section 703.F.7 of the Middlesex Subdivision and Land Development Ordinance, "eyebrow" protrusions and "hammerhead" type turnarounds (T-shaped) shall be permitted for privately-owned and maintained Streets or Alleys.

5. *Street Alignment*.

   a. In addition to the standards of Section 703.H.2 of the Middlesex Subdivision and Land Development Ordinance, the centerline or horizontal radius for all Streets shall be a minimum of one hundred (100) feet.

   b. In addition to the standards of Section 703.H.3 of the Middlesex Subdivision and Land Development Ordinance, the tangent for horizontal reverse curves Streets and Alleys shall be a minimum of ten (10) feet.

6. *Street Intersection*. In addition to the standards of Section 703.J.5 of the Middlesex Subdivision and Land Development Ordinance, the minimum curb radius for:

   a. A minor residential neighborhood or local access Street/road with another minor residential neighborhood or local access Street/road: Fifteen (15) feet;

   b. A minor residential neighborhood or local access Street/road with an Alley: Five (5) feet; and

c. An Alley with an Alley: Five (5) feet.

7. *Intersection Sight Distance and Clear Sight Triangles*. In addition to any standards of the Middlesex Subdivision and Land Development Ordinance, intersection sight distances shall be permitted in accordance with the following:

a. Minimum sight distance (including clear sight triangles) shall only be required at the approach of the intersection of two (2) Streets where cross-traffic is not required to stop.

b. At intersections where minimum sight distance is required, the same shall be provided pursuant to clear sight triangles, measured in accordance with Section 703.K of the Middlesex Subdivision and Land Development Ordinance, or safe stopping sight distance measured from the edge of the main traveled portion of any Street (i.e., edge of travel lane or travel way), exclusive of shoulder, auxiliary lane, and on-Street parking lane, as opposed to edge of pavement, and shall otherwise be provided in accordance with the applicable provisions of Section 703 of the Middlesex Subdivision and Land Development Ordinance or PennDOT standards.

(O) *Building Lot Standards*. See Section 706 of the Middlesex Subdivision and Land Development Ordinance, except as follows:

1. Lot Frontage. In addition to Street Rights-of-Way as set forth in Section 706.A.6 of the Middlesex Subdivision and Land Development Ordinance, Building Lots also shall be permitted to:

a. Be an Alley Lot adjoining an Alley but does not adjoin a Street at any point (i.e., Alley Lot); or

b. Adjoin an Open Space Lot located between and adjoining both such Lot and a Street. See Section 4.15(E).

2. Notwithstanding Section 706.A.6.c of the Middlesex Subdivision and Land Development Ordinance, Lots shall be permitted to adjoin, and buildings thereon shall be permitted to be oriented towards, an Arterial Street, provided that the primary access to those buildings shall not be directly from such Arterial Street.

(P) *Sidewalk and Pedestrian Pathway Standards*. See Section 707 of the Middlesex Subdivision and Land Development Ordinance, except as follows:

1. Sidewalks shall not be required to be provided along:

a. Alleys; and

b. Existing exterior Arterial or Collector Streets upon which NDD fronts, where a trail or pedestrian pathway is designed and constructed in accordance with Subsections (P)1 or (P)2.

2. In lieu of installing sidewalks along existing exterior Arterial or Collector Streets upon which NDD fronts, a trail or pedestrian pathway shall be permitted provided that such trail or pathway:

a. Will be open to the public and creates a continuous pedestrian pathway connecting either end of NDD site at points along or near such existing exterior Arterial or Collector Street. Notwithstanding the foregoing, the trail or pathway shall not be required to extend or cross over streams, floodplains, steep slopes or other natural features that would require the construction or widening of a bridge or culvert; and

b. Otherwise, is designed and constructed in accordance with the applicable provisions of this Section and Section 707.C of the Middlesex Subdivision and Land Development Ordinance.

3. In addition to the width standard of Section 707.C.2 of the Middlesex Subdivision and Land Development Ordinance, trails or pathways shall be permitted to be located within a minimum six (6) foot wide access easement.

(Q) *Curbing Standards*. See Section 708 of the Middlesex Subdivision and Land Development Ordinance, except as follows:

1. Curbs shall not be required to be provided along:

a. Alleys; and

b. Existing exterior Arterial or Collector Streets upon which NDD fronts.

(R) *Site Lighting Standards*. See Section 4.10 of this Ordinance and Section 711 of the Middlesex Subdivision and Land Development Ordinance, except as follows:

1. *Residential Development Fixture Placement*.

a. Street Lighting. In lieu of installing Street lighting within the Rights-of-Way along Streets in accordance with Section 711.F of the Middlesex Subdivision and Land Development Ordinance, yard lamp post style lighting (i.e., poles and fixtures) shall be permitted to be installed by the Developer on Lots near the Rights-of-Way and within the front yards. All yard lamp post style lighting shall be privately owned and maintained by the owner of the adjoining property and/or a Homeowners' or Condominium Association.

b. The provisions of Subsection (R)1.a. shall not apply to Sections 711.F.1.a and 711.F.1.b of the Middlesex Subdivision and Land Development Ordinance regarding lighting at intersections.

(S) *Landscaping Standards*. See Section 719 of the Middlesex Subdivision and Land Development Ordinance, except as follows:

1. *Final Landscape Plan*. Section 719.B.2.d of the Middlesex Subdivision and Land Development Ordinance regarding the identification and depiction of existing individual trees with trunks twenty (20) inches in diameter at breast height or greater shall only apply to such trees that are proposed to be removed.

2. *Landscape Requirements*. In lieu of Section 719.C.6.c of the Middlesex Subdivision and Land Development Ordinance:

a. Street trees shall be permitted to be planted and maintained in a Street Right-of-Way.

b. Unless otherwise approved by the Board of Supervisors, all Street trees and shrubs planted in Street Rights-of-Way shall be privately owned and maintained by the owner of the adjoining property and/or a Homeowners' or Condominium Association.

3. *Screen Buffer*. The screen buffer requirements specified under Sections 719.C.14.a.1) through 719.C.14.a.3) and 719.C.14.b.1) of the Middlesex Subdivision and Land Development Ordinance, and Sections 4.03(A)1.a.(1) through 4.03(A)1.a.(3) and 4.03(A)1.b.(1) of this Ordinance shall not apply to a Lot or use that is within NDD and adjoins:

a. Another Lot or use that also is within NDD; or

b. An Arterial Street, where buildings on such Lots are oriented with fronts facing such Arterial Street.

c. See Section 4.11(G)6.(b) of this Ordinance regarding parking Lot screening.

(T) *Modification of Standards*. Consistent with Sections 603(c)(5) and 605(3) of the Pennsylvania Municipalities Planning Code, the Board of Township Supervisors may, by conditional use approval, authorize a modification of NDD standards of this Section, or other area, dimensional and design-related standards of the Zoning Ordinance, which impact the layout and design of NDD, in order to encourage the use of innovative design. Any conditional use application requesting a modification of a Neighborhood Design Development standard or other applicable zoning standard shall be subject to the following standards:

1. The modification is generally consistent with the applicable elements of the:

a. Intended purpose of NDD as specified under Section 4.11(A);

b. Statement of Purposes (Section 1.02) of the Zoning Ordinance;

c. Intended Purpose of the MU-2 Districts (Section 2.12); and

d. Township Comprehensive Plan.

2. The modification will not result in any danger to the public health and safety, nor adversely impact adjoining properties or future inhabitants of NDD.

3. The modification will allow for equal or better results and represents the minimum amount of relief necessary to ensure compliance with the applicable standard.

Section 4.12 Nonconformities

(A) *General Regulations*. All lawful uses of land or of a Building, Sign or other Structure existing on the effective date of this Ordinance may be continued, altered, restored, reconstructed, changed, sold, or maintained even though such Use may not conform to the Use, Height, Area, Yard and other regulations of the zoning district in which it is located, provided such nonconforming conditions shall comply with the following requirements.

(B) *Nonconforming Buildings and Structures*.

1. *Continuation*. Any nonconforming Building or Structure existing on the effective date of this Ordinance or created to be nonconforming by an amendment to this Ordinance may be

continued although such Structure does not conform to the dimensional requirements of this Ordinance.

2. *Restoration*. A nonconforming Building or Structure shall not be restored for other than a conforming use after damage from any cause unless the nonconforming use is reinstated within one (1) year of such damage; if the restoration of such Building or Structure is not completed within the said one (1) year period, the nonconforming use of such Building or Structure shall be deemed to have been discontinued, unless such nonconforming use is carried on without interruption in the undamaged portion of such Building or Structure.

3. *Demolition*. In the event any nonconforming Building or Structure is destroyed or partially destroyed and the Owner has determined reconstruction/restoration infeasible, the Owner shall be responsible for the complete removal of the Building or Structure and debris as well as the filling of any excavated areas.

4. *Expansion or Alteration*. The following requirements shall apply to the expansion or alteration of nonconforming Buildings or Structures.

   a. The proposed alteration, extension, or expansion shall not exceed twenty-five (25) percent of the gross floor area occupied by the nonconforming use as determined at the time the use became nonconforming. Under no circumstances shall a nonconforming use of Buildings or Structures be permitted to be altered, extended, or expanded, whether one (1) or more times, by Special Exception, in excess of twenty-five (25) percent of the gross floor area occupied by the nonconforming use of Buildings or Structures as determined at the time the use became nonconforming.

      (1) The above notwithstanding, a Single-Family Detached Dwelling shall not be subject to the regulations contained in this Section 4.12(B)4., and is thereby exempt from any and all limitations or requirements herein regardless of the extent of damage or destruction that may be sustained.

      (2) The above notwithstanding, a Special Exception shall not be required for any modification that reduces any non-conformity of Buildings, Structures or open land, although all applicable permits and approvals required by any Middlesex Township Code or Ordinance shall be required.

   b. *Nonconforming Use of Land*. With respect to the nonconforming use of land (i.e., a nonconforming use of land not including a Building or Structure), the proposed alteration, extension, or expansion shall not exceed twenty-five (25) percent of the land area occupied by the nonconforming use as determined at the time the use became nonconforming. Under no circumstances shall a nonconforming use of land be permitted to be altered, extended, or expanded, whether one (1) or more times, by Special Exception, in excess of twenty-five (25) percent of the gross land area occupied by the nonconforming use of land as determined at the time the use of land became nonconforming.

   c. The Lot on which the expansion or alteration is proposed shall be limited to only that Lot on which the Building or Structure existed at the time it became nonconforming. Expansion onto adjoining Lot is prohibited.

   d. A nonconforming Building or Structure may be extended or expanded on the same Lot, provided that the extension or alteration shall conform to all dimensional requirements and all other applicable regulations of this Ordinance.

e. The Applicant shall furnish conclusive evidence as to the extent of the nonconformity when it was created. The above maximum increase shall be measured in aggregate over the entire life of the nonconformity.

f. *Extension Along a Nonconforming Setback*. If an existing Building has a lawfully nonconforming Building setback, additions may occur to increase the Height above such setback or to extend other portions of the Building of Structure out to the nonconforming side or rear setback line, provided that:

(1) The Building or Structure shall not be extended beyond the existing nonconforming setback line.

(a) No extension shall be permitted with five (5) feet of any Street right-of way or property lines.

(b) No extension shall be permitted which may cause danger to vehicular or pedestrian traffic on a Street by obscuring a view.

(2) No additional nonconformity shall be created.

(3) The new nonconforming extension shall not be greater than twenty-five (25) percent of the existing GFA.

(4) All other requirements of this Ordinance, including but not limited to provisions regarding Height restrictions, shall be met.

(5) Such addition shall not be permitted for a nonresidential Building that abuts an existing primarily residential Use.

g. Provision for vehicular access, off-street parking and off-street loading shall be consistent with standards required by this Ordinance.

h. Provisions for Yards, Building Height, and Building/Structure area shall be consistent with the standards required for permitted uses in the zone in which the nonconformity in question is located.

i. The expansion shall not create new dimensional nonconformities or further increase existing dimensional nonconformities.

j. The proposed alteration shall not cause an increased detrimental effect on the surrounding neighborhood.

k. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes, but is not limited to, fences, walls, plantings, and Open Spaces.

l. No expansion of a nonconforming Building or Structure located outside of a Building or Structure existing on the effective date of this Ordinance shall be permitted in any Floodplain area except in accordance with Section 2.19 Floodplain Conservation District of this Ordinance.

m. Excluding expansion, any modification, alteration, repair, reconstruction or improvement of any kind to a nonconforming Building or Structure located in the Floodplain area shall be permitted when either elevated above the base flood

elevation or floodproofed. In no case shall any modification, alteration, repair, reconstruction or improvement cause unacceptable increases in flood height, velocities or frequencies.

(C) *Nonconforming Lots*.

1. *Continuation*. Any nonconforming Lot, due to its Lot area or Lot width, existing as of the effective date of this Ordinance or created by an amendment to this Ordinance may be continued although such Lot does not conform to the Lot requirements for the district in which it is located.

2. *Development*. The following requirements apply to the development and use of the nonconforming Lot:

   a. All the requirements of this Ordinance shall be met with the exception of Lot area and Lot width. Furthermore, no Lot shall be developed unless the following requirements are met:

      (1) Each Lot shall have an approved on-Lot water and wastewater system or access to public water and public sewer. Additionally, for those Lots utilizing on-Lot water the minimum required isolation distance between the well and the on-Lot wastewater system shall be provided.

      (2) In residential districts, only one (1) principal single family dwelling may be erected and the following minimum side yards shall be provided.

         i. Interior Lots with a width of fifty (50) feet or more, two (2) side yards shall be provided as required by the zoning district bulk and area regulations specified in Article 2 of this Ordinance.

         ii. Corner Lots with a width of fifty (50) feet or more, two (2) front yards shall be provided. The front yard opposite the interior side yard may be reduced by the required number of feet the Lot width is less than the zoning district bulk an area regulations specified in Article 2 of this Ordinance require but may not be reduced to less than the minimum side yard. The side yard shall be provided as required by the zoning district Building form regulations.

         iii. On Lots not more than fifty (50) feet but not less than twenty-seven (27) feet in width, two (2) side yards shall be provided, each equaling twenty (20) percent of the Lot width, as required by the zoning district bulk and area regulations specified in Article 2 of this Ordinance.

      (3) On a Lot in a commercial or industrial district, the required side yards shall be determined by the Zoning Hearing Board upon application for a Variance based on the same criteria as above for residential Structures.

   b. Where possible, contiguous parcels under common ownership shall be re-platted to create conforming Lots.

(D) *Nonconforming Uses*.

1. *Continuation*.

   a. Any nonconforming Use existing on the effective date of this Ordinance or created by an amendment to this Ordinance may be continued although such Use does not conform to the provisions of this Ordinance. Change in ownership or possession of the Use or property shall not prevent the continuance of the nonconforming Use.

   b. Any planned residential developments or portions thereof that were previously approved or completed prior to the effective date of this Ordinance shall continue to operate under this Ordinance in effect when they were approved.

2. *Expansion or Alteration*. Any nonconforming Use may be expanded or altered only once through the obtainment of a Special Exception from the Zoning Hearing Board and subject to the following criteria:

   a. The Lot on which the expansion or alteration of a nonconforming Use is proposed shall be limited to only that Lot on which the Use existed at the time it became nonconforming. Expansion onto adjoining Lots is prohibited. Any portion of the parent Lot with a nonconforming Use on part of the Lot which was subdivided after January 3, 2018, and to which subdivided Lot the nonconforming Use has not been extended before subdivision shall, after subdivision, be used only in conformity with all the provisions of this Ordinance.

   b. The total of all such expansions or alterations of Use shall not exceed an additional twenty-five (25) percent of the actual area of those Buildings or Structures or portion of the land devoted to and used by the nonconforming Use, whichever is more restrictive, as they existed on the date such Use first became nonconforming. All expansions of the nonconforming Use and/or Building(s) that occurred since the Use originally became nonconforming shall count toward the above maximum increase.

   c. The nonconforming use of a Building may be expanded within the Building, provided that the expansion is limited to fifty (50) percent of the GFA occupied by the nonconforming Use at the time the Use became nonconforming.

   d. The Applicant shall furnish conclusive evidence as to the extent of the nonconformity and lawfulness in all respects when it was created.

   e. Provision for vehicular access, off-street parking and off-street loading shall be consistent with standards required by this Ordinance.

   f. Provision for yards, Building Height and Building Area shall be consistent with the standards required for permitted uses in the district in which the nonconformity in question is located.

   g. Appearance of expansions should be harmonious with surrounding properties; this feature includes, but is not limited to, landscaping, enclosure of principal and accessory uses, Height control, Sign control, architectural control and maintenance of all improvements and Open Spaces.

h. Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes, but is not limited to, fences, walls, plantings, and Open Spaces.

i. No expansion of a nonconforming Use located outside of a Structure existing on the effective date of this Ordinance shall be permitted in any Floodplain area except in accordance with Section 2.18 Floodplain Conservation District.

j. Excluding expansion, any modification, alteration, repair, reconstruction or improvement of any kind to a nonconforming Use located in the Floodplain area shall be permitted when either elevated above the base flood elevation or floodproofed to the extent required in Section 2.18 Floodplain Conservation District.

k. The expansion shall not create new dimensional nonconformities or further increase existing dimensional nonconformities.

l. The proposed expansion or alteration shall not cause an increased detrimental effect on the surrounding neighborhood.

3. *Change of Use*. The following regulations shall apply to the change of nonconforming uses:

a. A nonconforming Use changed to a conforming Use shall not be permitted to be changed back to a nonconforming Use.

b. A nonconforming Use shall be permitted to be changed to another nonconforming Use upon application to the Zoning Hearing Board for a Special Exception and in accordance with Section 1.15(H)2. of this Ordinance and the following standards:

(1) The Applicant shall show the nonconforming Use cannot be changed reasonably to a Permitted Use.

(2) The Applicant shall demonstrate the change shall be less objectionable in external effects than the existing nonconforming Use including, but not limited to:

(a) Traffic impact;

(b) Environmental impact (e.g., noise, smoke, dust, fumes, vapors, gases, heat, odor, glare or vibration);

(c) Solid waste disposal; and

(d) Appearance.

(3) The Applicant shall demonstrate the change shall meet other requirements of this Ordinance, including parking and loading, buffering, and signage.

4. *Abandonment, Discontinuance and Delinquency*.

a. The ceasing of a nonconforming Use in a Building or Structure for a continuous period of one (1) year or more shall create the presumption of abandonment of the nonconforming Use. Subsequent use of such Building or Structure shall be in conformity with the provisions of this Ordinance.

b. The ceasing of a nonconforming use of land for a continuous period of one (1) year or more shall create the presumption of abandonment of the nonconforming Use with the exception of normal agricultural practices, such as, the rotation of crops. Subsequent use of such land shall be in conformity with the provisions of this Ordinance.

c. In the case of the death of the Landowner and/or settling of an estate the discontinuance of the nonconforming Use shall not be considered an abandonment of the Use in accordance with Sections (D)(1) and (2) above until the estate is settled or a court order has been entered regarding the estate's disposition. A one (1) year grace period after such settlement or court order shall apply.

d. A nonconforming Use shall be deemed abandoned in the event the Township or County acquires an unredeemed, tax delinquent property and sells said property. Subsequent use of the land shall be in conformity with the provisions of this Ordinance.

(E) *Documentation of the Nonconformance*.

1. It shall be the right of the Landowner to provide evidence of the nonconformance. At the request of the Landowner and based on evidence provided to the Zoning Officer, the Zoning Officer shall issue a Certificate of Nonconformance, which shall be for the purpose of insuring to the Owner the right to continue a nonconforming Building or Use. If no documented evidence is produced, it shall be assumed that the nonconformance is not a preexisting condition.

2. The Certificate of Nonconformance shall set forth in detail all the nonconforming conditions of said property.

3. The Township shall retain a copy of the Certificate of Nonconformance.

Section 4.13 North Mountain Conservation Design Standards

(A) *Purpose*. The North Mountain Conservation Design Standards are intended to provide supplemental environmental conservation land use and land use development controls within the North Mountain Conservation District (NMC) District.

(B) *Applicability*. These standards apply to any Land Development as defined in Article 6 of this Ordinance occurring with the NMC District consisting of twelve (12) acres or more of Gross Land Area from the effective date of this Ordinance.

(C) *Site Planning and Design Standards*. The following site planning and design standards will determine the ability to and establish the process for Land Development within the NMC District.

1. *Conservation Analysis*. A Conservation Analysis of existing on-site sensitive natural features is required for all Zoning Permit applications pertaining to land development projects within the NMC District.

a. *Existing Resources Inventory Mapping*. The existing resources inventory maps shall provide the applicant and the Township with a comprehensive analysis of existing conditions, both on the proposed development site and within one hundred (100) feet of the site. The existing resources inventory map(s) shall include:

(1) Aerial imagery obtained from the Cumberland County GIS Department enlarged to a scale not less than one (1) inch to four hundred (400) feet (1"=400') with site boundaries of the proposed subdivision/land development clearly shown.

(2) Resources and conditions beyond the boundaries of the subject property may be described on the basis of existing published data available from governmental agencies, and from aerial photographs taken in the past five (5) years.

(3) Map scale options shall include one (1) inch to fifty (50) feet (1"=50'), one inch to one hundred feet (1"=100'), and one (1) inch to two hundred (200) feet (1"=200').

(4) Maps shall show the following features as applicable to the applicant's subject property(ies):

(a) Existing (from field data) contours of the site at vertical intervals of two (2) feet for areas with an average slope of ten (10) percent or less and at intervals of five (5) feet for areas with an average slope exceeding ten (10) percent.

(b) *Slope Mapping*. Slopes shall be shaded and identified as follows:

i. 0-5% (flat-mild).

ii. 5-10% (mild to mildly steep).

iii. 10-15% (mildly to moderately steep).

iv. 15-25% (moderately steep).

v. >25% (steep).

(c) The location and delineation of ponds, streams, ditches, drains, natural or artificial drainage swales, and drainage courses/ways/draws located on or within two hundred (200) feet of the subject property. Streams shall be classified as either perennial or intermittent.

(d) Existing one hundred (100)-year floodplains for all streams including but not limited to only Federal Emergency Management Agency (FEMA)-defined streams, channels, and natural draws as defined by:

i. An existing detailed FEMA Study or if not available.

ii. A Hydrology and Hydraulic (H&H) Study prepared by a Registered Design Professional with experience in preparing said studies.

iii. An alternate method may be proposed and used if properly justified and approved by the Township Engineer.

(e) *Wetlands*.

i. For areas within the bounds of the proposed subdivision, wetland locations shall be identified and delineated pursuant to 25 Pa. Code § 105.451..

ii. For areas beyond the limits of the proposed subdivision, wetland locations may be determined by publications of the USFWS or the USDA NRCS, NWI or other acceptable published mapping.

(f) Natural forest, woodlands and tree cover shall be shown as a circumferential line around all forest and tree stands.

i. Individual trees with a caliper equal to or greater than thirty-six (36) inches shall be located on the inventory map.

ii. Hedgerows shall be located on the inventory map.

(5) Class I, II, and III soils shall be delineated and shown as mapped by the USDA NRCS in the most recent published soil survey for Cumberland County.

(6) Erodible soils (based on k factor) on slopes over twenty-five (25) percent.

(7) Geologic formations on the proposed development parcel, including rock outcroppings, cliffs, sinkholes, and fault lines, based on available published information or more detailed data obtained by the Applicant.

(8) All existing man-made features shall be shown including but not limited to Streets, driveways, farm roads, woods roads, buildings, foundations, walls, wells, drainage fields, tanks (aboveground or underground), dumps, utilities, fire hydrants, and storm and sanitary sewers. Those man-made features that are proposed to be demolished and removed shall be so labeled.

(9) Locations of all historically significant sites or structures on the tract, including but not limited to buildings, cellar holes, stone walls, earthworks, and graves.

(10) Locations of trails that have been in public use (pedestrian, equestrian, bicycle, etc.).

(11) All easements and other encumbrances of the property, which are or have been filed of record with the Recorder of Deeds of Cumberland County, shall be shown on the plan.

(12) *Significant Natural Areas and Features*. A copy of a current Pennsylvania Statewide Natural Diversity Inventory (PNDI) search must be submitted with all proposed Zoning Permit applications pertaining to the NMC District.

2. *Site Analysis Report*. A report shall be prepared to categorize the impacts of the proposed activities and physical alterations on those resources shown on the Existing Resource Inventory Mapping. The report shall take into consideration all factors, items, data, natural resources, studies and those item and/or topics otherwise required to be studied as described in the Conservation Analysis above. Impacts of the proposed subdivision/development on existing resources and measures taken to minimize and control such impacts both during and post development shall be discussed. Said report should contain conclusions drawn and proposed recommendations for developing the project site to determine the extent to which such features should be designated partly or entirely as conserved/not to be disturbed Open Space or development lands. Said report shall be used by the Applicant to design the project to avoid negative impacts to said items, features and topics studied.

3. *Woodland Evaluation*. A Woodlands Evaluation Report shall be included in the Site Analysis Report prepared by a forester, landscape architect, horticulturist or another qualified professional acceptable to Middlesex Township Board of Supervisors. At a minimum the report shall include:

   a. One or more maps indicating boundaries and conditions of woodland areas.

   b. A description of the present conditions (i.e., stocking, health and species composition of the woodland).

   c. A description of the ecological functions of the woodland (i.e., in protecting steep slopes, erodible soils, maintaining stream quality and providing for wildlife habitats).

   d. A description of the proposed impact to the woodlands (i.e., approximate acreage of wooded area to be disturbed).

   e. The relationship of the on-site woodlands to woodlands on adjoining and nearby properties and the ecological need and potential for maintaining continuous woodland areas from property to property.

Section 4.14 Obstruction to Vision

(A) Walls, fences, signs, other structures, or obstructions shall not be erected or altered, and hedges, trees or other plant material shall not be planted or maintained, which may cause danger to traffic on a Street, road, or driveway by obstructing the available sight distance. The required sight distance is the minimum safe stopping sight distance in accordance with the Street design requirements of the Middlesex Township Subdivision and Land Development Ordinance.

(B) In addition to the requirements of Section 4.01(C) of this Ordinance, on corner Lots no wall, fence, Sign or other Structure in excess of three and one-half (3½) feet in Height shall be erected or altered and no hedge or other plant material in excess of three and one-half (3½) feet in Height shall be permitted within twenty-five (25) feet in any direction of the intersection of the Street Right-of-Way.

Section 4.15 Off-Street Parking and Loading

(A) *Purpose*.

The Township recognizes that off-street areas are necessary to accommodate the needs of commercial businesses, residential uses, and the general public. It is the intent of this article to

promote public health, safety, and welfare by providing reasonable standards for off-street parking areas that:

1. Minimize conflicts between pedestrians and motor vehicles.

2. Create visually attractive parking areas.

3. Ensure a sufficient number of spaces for the intended use of the property.

4. Ensure adequate lighting.

5. Ensure adequate drainage.

6. Provide for efficient maneuverability and safe vehicle and pedestrian circulation.

7. Protect the character and stability of residential, business, institutional and industrial areas.

8. Preserve the value of land and Buildings on surrounding properties.

(B) *General Parking Regulations*.

1. Off-Street parking facilities shall be provided to lessen congestion in the Streets. The facilities required herein shall be available to patrons throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term "parking space" includes either covered garage space or uncovered parking space located off the public Right-of-Way.

2. Unless determined unnecessary by the Township Engineer, parking spaces and approaches thereto shall be paved in accordance with Middlesex Township Subdivision and Land Development Ordinance.

3. All commercial, public, institutional, and industrial uses shall provide ADA-accessible parking spaces according to the Township Building Code.

4. In residential districts, no part of any minimum front Yard Setback shall be used for parking purposes, except that the driveway area located within the front Yard Setback may be used for off-street parking. For nonresidential uses, parking may be permitted no closer than fifteen (15) feet from the Street Right-of-Way line.

5. *Parking or Use of Major Recreational Equipment and Major Commercial Vehicles*.

   a. No recreational Vehicle or commercial Vehicle shall be parked or stored on any Street or publicly dedicated Right-of-Way except for the temporary purposes of loading or unloading, and such temporary purposes shall not exceed a twenty-four-hour period.

   b. No recreational Vehicle or Commercial Vehicle shall be used for living, sleeping or housekeeping purposes when parked or stored upon a Lot, or when parked or stored in any location not approved for such use.

(C) *Off-Street Parking Requirements*.

Any of the following permitted uses or Buildings hereafter established, erected or enlarged; any use or Building hereafter converted into one of the following uses; and any Open Space hereafter

used shall be provided with not less than the minimum off- Street parking spaces as set forth in Table 4.15.1, together with adequate access drives, driveways or other means of circulation and access to and from a Street. Current ADA requirements for handicapped parking must be met pursuant to the Township Building Code. Where the computation of required parking spaces results in a fractional number, any fraction shall be rounded to the nearest whole number. However, the Applicant may, in lieu of adhering to the requirements under Table 4.15.1, use the Computation of Required Off-Street Parking Spaces specified under Subsection (D).

Table 4.15.1, Off-Street Parking Space Requirements

USES	REQUIRED PARKING SPACES (MIN.)
RESIDENTIAL AND LODGING USES	
Bed and Breakfast	1 space per sleeping room, plus 2 per permanent residents
Community Residence, Group Home	1 space per 2 beds; plus 1 space per employee on the largest work shift
Community Residence (Halfway House Sober Living Facility/Recovery House)	1 parking space for each sleeping room to be occupied by residents plus 1 space for each dwelling unit on the premises, plus 1 space for every 2 employees not living on the premises
Dwelling, Multi-Family, Apartment	2 per unit
Dwelling, Multi-Family Conversion	2 per unit
Dwelling, Single Family Detached	2 per Lot
Dwelling, Single Family Semi-Attached, Duplex	2 per unit
Dwelling, Single Family Attached, Townhouse	2 per unit
Dwelling, Tiny Home	1 per unit
Hotel	1 space for each guest room, plus 1 space for each 2 employees on the largest shift
Live-Work Unit	1 per unit
Manufactured Home	2 per Lot
Manufactured Home Parks	2 per Lot
Mixed-Use Building	Parking Analysis Report pursuant to Subsection (D)
Motel	1 space for each guest room, plus 1 space for each 2 employees on the largest shift
Rooming House and Boarding House	1 parking space for each sleeping room to be occupied by boarders plus 1 space for each dwelling unit on the premises, plus 1 space for every 2 employees not living on the premises
Temporary Shelter Facility	1 per each employee on the maximum shift and 1 per each employee on the preceding shift
CIVIC AND INSTITUTIONAL USES	

USES	REQUIRED PARKING SPACES (MIN.)
Assembly, General	Parking Analysis Report pursuant to Subsection (D)
Assembly, Neighborhood	Parking Analysis Report pursuant to Subsection (D)
Cemetery	1 per each employee and accessways to the cemetery sections shall allow parallel parking on the accessway for gravesite services and visitations. Such parking shall not queue into the public Right-of-Way or Clear Sight Triangle
Government Facility	Parking Analysis Report pursuant to Subsection (D)
Hospital	Parking Analysis Report pursuant to Subsection (D)
Library/Museum	1 space for each 400 square feet of GFA
Long-Term Care Facility	Parking Analysis Report pursuant to Subsection (D)
Place of Worship	1 per 4 fixed seats; 1 per 40 square feet of multi-use GFA if no fixed seats; 1 per office or classroom
Police/Fire/EMS	1 space per 400 square feet of facility space, plus 1 space for each 50 square feet of assembly area, meeting room, conference, etc. Note these are outdoor parking spaces and do not account for the required spaces needed for indoor parking of emergency service vehicles.
School, Pre-K, K-12, and Vocational Education	Parking Analysis Report pursuant to Subsection (D)
School, Post Secondary Education	Parking Analysis Report pursuant to Subsection (D)
Stadium/Arena	Parking Analysis Report pursuant to Subsection (D)
AGRICULTURE, FORESTRY, AND OPEN SPACE USES	
Agricultural Operation	2 per dwelling located within the agriculture area and 1 for each full-time worker
Commercial Stock Yards and/or Feedlots	1 per 1,500 square feet of use area
Community Garden	1 per 2,000 square feet of land area
Equine Activities	1 per 4 stalls
Forestry Operation	N/A
Nature Preserve	Parking Analysis Report pursuant to Subsection (D).
Recreation Facility, Commercial or Private	Parking Analysis Report pursuant to Subsection (D).

USES	REQUIRED PARKING SPACES (MIN.)
Recreation Facility, Public	Parking Analysis Report pursuant to Subsection (D).
Shooting Range (Indoor and Outdoor)	Parking Analysis Report pursuant to Subsection (D).
RETAIL USES	
Commercial Equipment and Supply	1 per each 200 square feet of GFA
Construction Trade and Contractor	Parking Analysis Report pursuant to Subsection (D)
Convenience Store	1 per each 200 square feet of GFA
Drive Through Only Facility	1 per each employee per shift, plus applicable loading areas for product delivery
General Retail	1 per each 200 square feet of GFA
Grocery Store	1 per each 200 square feet of GFA
Medical Marijuana Dispensary	1 per each 200 square feet of GFA
Neighborhood Retail	1 per each 200 square feet of GFA
Outdoor Retail Sales Lot	1 per each 2,000 square feet of Lot area for employee and customer parking (excludes vehicle display area)
Planned Center, Commercial	Parking Analysis Report pursuant to Subsection (D)
Public Market	1 per each 200 square feet of GFA
SERVICE USES	
Adult Day Care Center	1 per each employee on the maximum shift and 1 per each 2 of the maximum number of adults cared for at the center
Assisted Living Facility	Parking Analysis Report pursuant to Subsection (D)
Automobile Car Wash	1 parking space per employee of the largest shift. Stacking for 5 vehicles for automatic car wash lane, plus 2 drying spaces for each washing stall.
Automobile Repair and/or Towing Service	1 per each employee on the maximum shift and 1 per vehicle if drop off service is offered, plus vehicle queue area
Automobile Sales and Rental Service	1 per each 2,000 square feet of Lot area for employee and customer parking (excludes vehicle display area)
Brew Pub	1 per each 50 square feet of GFA
Childcare Center	1 per each employee on the maximum shift and 1 per each 2 of the maximum

USES	REQUIRED PARKING SPACES (MIN.)
	number of children cared for at the center
Community Service	1 per each 200 square feet of GFA
Drinking Place	1 per each 50 square feet of GFA
Eating Place	1 per each 50 square feet of GFA, plus vehicle queue area for drive through facilities
Electronic Cigarette / Vaporizer Store	1 per each 200 square feet of GFA
Entertainment Assembly	Parking Analysis Report pursuant to Subsection D
Family Childcare Home	1 per each employee on the maximum shift and 1 per each 2 of the maximum number of children cared for at the center
Family Entertainment Center	Parking Analysis Report pursuant to Subsection D
Funeral Home / Mortuary	Parking Analysis Report pursuant to Subsection (D).
General Service	1 per 1,500 square feet of GFA
Group Childcare Home	1 per each employee on the maximum shift and 1 per each 2 of the maximum number of children cared for at the center
Kennel	1 per each employee on the maximum shift and 1 per each 200 square feet of area devoted to the kennel area
Massage Establishment	1 per each 200 square feet of GFA
Medical Clinic	1 per each 200 square feet of GFA
Microbrewery, Microdistillery, Microwinery	1 per 500 square feet of use area
Methadone Treatment Facility	1 per each 200 square feet of area in addition to spaces provided for other uses within the same Building
Neighborhood Service	1 per 500 square feet of use area
Pawn Shop/Check Cashing Establishment	1 per 500 square feet of use area
Private Club	1 space for each 400 square feet of office space, plus 1 space for each 50 square feet of assembly area, meeting room, conference, etc.
Recreational Campground	2 spaces per Lot or campsite, plus 4 spaces at or near each comfort station on a roadway shall also be provided, which may be counted as part of the overall number of spaces required for the campsites. Parking shall also be provided at the park entrance for

USES	REQUIRED PARKING SPACES (MIN.)
	guest registration at a rate of 1 per 500 square feet of use area
Self-Storage Facility	1 per 1,500 square feet of use area
Smoking Places	1 per 500 square feet of use area
Tattoo/Piercing Parlor	1 per 500 square feet of use area
Truck Repair and/or Towing Service	Parking Analysis Report pursuant to Subsection (D)
Truck Sales and Rental Service	Parking Analysis Report pursuant to Subsection (D)
Truck Stop	Parking Analysis Report pursuant to Subsection (D)
Truck Wash	Parking Analysis Report pursuant to Subsection (D)
ADULT USES	
Adult Establishments	Parking Analysis Report pursuant to Subsection (D)
EMPLOYMENT USES	
Craftsman Industrial	1 per 500 square feet of use area
Data Center	Parking Analysis Report pursuant to Subsection (D)
Office Uses	1 per each 300 square feet of GFA
INFRASTRUCTURE USES	
Airport / Heliport / Helistop	1 per 500 square feet of office space use area, plus 1 per private hanger space, 2 per tie-down for based aircraft, 5 per regular commercial flight, and 1 per 1,000 square feet of site area
Parking as a Principal Use	1 space per parking attendant employee, plus 1 space for the employee on the preceding shift
Principal Solar Energy Systems (PSES)	1 per each service vehicle
Principal Wind Energy Systems (PWES)	1 per each service vehicle
Transit Bus Stops	N/A
Transit Facility	Parking Analysis Report pursuant to Subsection (D).
Transportation and Essential Services	Parking Analysis Report pursuant to Subsection (D)
Wireless Communications Facilities, Small Wireless Communications Inside the Public Rights-of-Way	N/A
Wireless Communications Facilities, Small Wireless Communications Outside the Public Rights-of-Way	N/A
Wireless Communications Facilities, Tower-Based	1 per each service vehicle

USES	REQUIRED PARKING SPACES (MIN.)
INDUSTRIAL USES	
Automotive Dismantler and Recycler	1space per employee plus 1 space per acre
Brewery, Distillery, Winery	1 per 1,500 square feet of site area
Heavy Industry	1 per 1,500 square feet of site area
Junkyards	One (1) space per employee plus one (1) space per acre.
Light Industry	1 per each employee on the maximum shift and 1 per each 300 square feet of office area
Meat Processing Establishment	1 per 1,500 square feet of site area
Medical Marijuana Grower / Processor Facility	1 per 500 square feet of use area
Mining and Mineral Extraction	1 per 1,500 square feet of site area
Outdoor Storage Yard	1 per 1,500 square feet of site area
Planned Center, Industrial	Parking Analysis Report pursuant to Subsection (D)
Solid Waste Disposal Facility	One (1) space per employee plus one (1) space per acre.
Truck Terminal	Parking Analysis Report pursuant to Subsection (D)
Truck or Trailer Parking	Parking Analysis Report pursuant to Subsection (D)
Warehouse and Distribution	Parking Analysis Report pursuant to Subsection (D)
Yard Waste Composting Facility	One (1) space per employee plus one (1) space per acre
ACCESSORY USES	
Accessory Dwelling Unit	1 per unit
Accessory Solar Energy Systems	Equal to the minimum number required for the Principal Use
Accessory Wind Energy Systems	Equal to the minimum number required for the Principal Use
Agricultural Commercial Enterprise	Parking Analysis Report pursuant to Subsection (D)
Agritourism Marketing Enterprise	Equal to the minimum number required for the Principal Agricultural Operation
Airstrip, Heliport/Helistop	See Airport, Heliport, and Helistop above
Automobile Car Wash	1 parking space per employee of the largest shift. Stacking for 5 vehicles for automatic car wash lane, plus 2 drying spaces for each washing stall
Carport, Portable or Temporary	Equal to the minimum number required for the Principal Use

USES	REQUIRED PARKING SPACES (MIN.)
Community Garden	1 per 2,000 square feet of land area
Drive-Through Facility	1 per each 50 square feet of GFA, plus vehicle queue area for drive through facilities
Electric Vehicle Charging Station, Levels 1 & 2	Equal to the minimum number required for the Principal Use
Electric Vehicle Charging Station, Level 3	1 per charging station
Farm Occupation	Equal to the minimum number required for the Principal Agricultural Operation
Keeping of Chickens (for non-commercial purposes)	Equal to the minimum number required for the Principal Use
Keeping of Honeybees	Equal to the minimum number required for the Principal Use
Keeping of Exotic Wildlife	Equal to the minimum number required for the Principal Use
Keeping of Livestock	Equal to the minimum number required for the Principal Use
Manure Storage Facility	Equal to the minimum number required for the Principal Use
Mineral and Resource Extraction Activities Associated with a Land Development Project	Parking Analysis Report pursuant to Subsection (D)
No-Impact Home-Based Business	Equal to the minimum number required for the Principal Use
Outdoor Dining Area	1 per 100 square feet of outdoor seating area
Outdoor Display and Sales	Outdoor equipment and automotive/Truck sales and leasing shall
Parking	Parking Analysis Report pursuant to Subsection (D)
Short-term Rental	Equal to the minimum number required for the Principal Use
Water Cooling and/or Storage Systems for Data Centers	Equal to the minimum number required for the Principal Use
TEMPORARY USES	
Farmers Market	Parking Analysis Report pursuant to Subsection (D)
Model Home and/or Subdivision Sales Office	1 space per sales attendant employee, plus 3 spaces for customers
Open Air Market	None; provided, sufficient area is available to accommodate all employee and customer parking needs on the site, entirely outside of public Rights-of-Way other than designated parking spaces
Temporary Construction Site Trailer	Equal to the minimum number required for the Principal Use

USES	REQUIRED PARKING SPACES (MIN.)
Temporary Outdoor Event	Parking Analysis Report pursuant to Subsection (D)
USES NOT PROVIDED FOR	
In the case where a use is not provided for in Table 4.15.1, Off-Street Parking Space Requirements, the Zoning Officer may make a determination on the applicable parking standards based on a comparable use. In the event such determination cannot be made, then the Applicant shall be subject to the requirements of Section 3.03 Unlisted Uses of this Ordinance.	In addition to the reasonable standards applied by the Board of Supervisors, the Township shall require a Parking Analysis Report pursuant to Subsection D to determine the minimum required number of parking spaces.

(D) *Computation of Required Off-Street Parking Spaces*.

1. To ensure that certain developments provide adequate, but not excessive, vehicle parking, the Township requires applicants thereof to submit a written computation of their required off-street parking spaces based on the estimated parking demand of the proposed Use(s).

2. The Applicant shall prepare a Parking Analysis Report to propose the number of required off Street parking spaces. The Report shall be prepared by a Registered Design Professional and/or a Certified Planner. The Parking Analysis Report shall contain the following:

   a. *Site Plan*. A Site Plan containing the following:

      (1) Legal property boundary.

      (2) Existing and proposed project layout.

      (3) All existing and proposed uses and tenant spaces.

      (4) All existing and proposed parking spaces.

   b. Analysis of parking demand information from professional literature that is pertinent to the proposed development. Such information may include data or literature from the Urban Land Institute's (ULI) Shared Parking, Third Edition publication and/or the Institute of Transportation Engineers' (ITE) Parking Generation Manual, 5th Edition.

   c. The actual number of parking spaces required shall be based on well-recognized sources of parking data such as the above cited ULI or ITE reports. If standard rates are not available or limited, the applicant may collect data at similar sites to establish local parking demand rates. The information about the existing development and its parking demand shall include enough detail to evaluate similarities and differences between the existing development and the proposed development. Field surveys shall consider the seasonal peak period for the proposed land uses involved.

   d. Propose a minimum and maximum parking ratio. For phased projects, and for projects where the tenant mix is unknown or subject to change, the Applicant may propose a range (low and high number of parking spaces) for each development phase and both a minimum and maximum number of parking spaces to be provided at buildout of the project.

   e. Peak hours of operation and parking occupancy.

f. Final number of proposed required parking spaces with justification and summary of findings (Note: Where the calculation of minimum parking spaces does not result in a whole number, the result shall be rounded up to the next whole number).

3. *Township Approval*.

a. As part of the Township's required subdivision or land development application approval process, the Township Board of Supervisors, upon recommendation by the Planning Commission and in consultation with the Township Zoning Officer and Township Engineer shall consider the final parking requirements determination made in the Applicant's Parking Analysis Report. Based on the Applicant's materials and other data the Township Engineer deems relevant, the Board of Supervisors shall set the requirements for minimum and maximum parking allowed. Conditions of approval may be placed on the Decision to ensure compliance with the parking determination.

b. The Applicant may appeal the Township's Decision to the Zoning Hearing Board pursuant to Section 1.13 of this Ordinance.

(E) *Location and Management Requirements*.

1. *Existing Parking*. Buildings and uses existing on the effective date of this Ordinance shall not be subject to the requirements of this article in accordance with the following:

a. The type or extent of use is not changed; and

b. Provided that any parking facility now serving such structures or uses shall not in the future be reduced.

2. *Changes in Requirements*. Whenever there is an alteration of a Building or a change or extension of a use which increases the parking requirements, the total additional parking required for the alteration, change or extension shall be provided in accordance with the requirements of this article.

3. *Conflict with Other Uses*. No parking area shall be used for any use that interferes with its availability for the parking need it is required to serve.

4. *Continuing Obligation*. All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Reasonable precautions are to be taken by the property Owner or business Owner to assure the availability of required facilities for the employees or other persons for whom the parking areas are designed to serve. The property Owner or business Owner shall ensure that the parking area at no time constitutes a nuisance, hazard or unreasonable impediment to traffic.

5. *Shared Parking*.

a. Shared parking shall be applied when land uses have different parking demand patterns and are able to use the same parking spaces/areas throughout the day, especially for multi-story, vertically mixed-use buildings.

b. The minimum number of parking spaces for a development or where shared parking strategies are proposed shall be determined by a study prepared by the applicant following the procedures specified under Subparagraph (D) above.

c. *Shared Parking Agreement*. If a privately-owned parking facility is to serve two or more separate properties, a legal agreement between property owners guaranteeing access to, use of, and management of designated spaces is required.

d. *Shared Parking Plan*. The following are required submissions for a shared parking proposal:

(1) Site plan of parking spaces intended for shared parking and their proximity to land uses that they will serve.

(2) A signage plan that directs drivers to the most convenient parking areas for each particular use or group of uses (if such distinctions can be made).

(3) A pedestrian circulation plan that shows connections and walkways between parking areas and land uses.

(4) These paths should be as direct and short as possible.

(5) A safety and security plan that addresses lighting and maintenance of the parking areas.

6. *Location of Spaces*.

a. Except as provided for in Subsection 6.b. below, off-Street parking spaces for single- and two-family residential uses shall be provided on the same Lot.

b. Parking spaces in a common parking lot for Townhoues or for multifamily dwelling Building(s), commercial, industrial and other nonresidential uses shall be readily accessible to the Building(s) served. Such space shall be in the same zoning district as the principal Building or use, and conform to the following requirements:

(1) Required parking spaces shall be located within two hundred (200) feet of the principal Building or use when located on the same side of the Street.

(2) Required parking spaces shall be located within four hundred (400) feet of the principal Building or use when linked to a pedestrian trail or sidewalk when located on the same side of the Street.

(3) Fifty (50) percent of the required parking spaces may be located across a minor or local Collector Street with the following conditions:

(a) Crosswalks shall be provided in order to ensure safe pedestrian access to and from the parking area.

(b) Safety lighting shall be provided at the crosswalk to illuminate the cross area when the parking area is used in early morning or at night.

(c) A pedestrian crossing Sign in accordance with PennDOT Publications 68 and 236 shall be provided on each side of the road.

(d) Parking Lots located across a Street shall be safe for pedestrian use. To ensure safety, the design of the crosswalk shall consider the speed limit, sight distance, visibility, road conditions and other safety factors. In the event that the crosswalk is deemed to be unsafe by the Township Engineer, the Zoning Officer shall not permit parking areas across a Street.

(e) In the event that the crosswalk is deemed to be unsafe by the Township Engineer, adjacent development, the change of Street classification or other circumstances that shall affect pedestrian safety, the parking Lot shall be abandoned.

(f) The distances specified herein shall be measured from the nearest point of the parking Lot to the nearest point of the principal Building or use that the parking Lot is required to serve.

(g) The Applicant zoning permit application shall include a legal document approved by the Township Solicitor that subjects such parcels of land to parking uses in connection with the principal use to which it is accessory. The legal document must indicate the parking spaces will be provided perpetually. Prior to the issuance of a zoning permit, the applicant must record such legal documents with the Cumberland County Recorder of Deeds and provide a copy of the recorded documents to the Zoning Officer.

7. *Lighting*. Any lighting used to illuminate off-street parking or loading areas shall be in accordance with Section 4.10, Lighting, of this Ordinance.

8. *Landscaping*. The landscaping requirements for Off-Street Parking Areas specified under the Middlesex Township Subdivision and Land Development Ordinance shall apply.

(F) *Design Standards*. Parking space and aisle dimensions shall be not less than those listed in Table 4.15.2. Accessible parking shall meet the standards specified under the Township Building Code.

Table 4.15.2, Vehicle Parking Space and Aisle Dimensions.

Angle of Parking	Min. Stall Width	Min. Stall Depth[1]	Min. Aisleway Width, One-Way	Min. Aisleway Width, Two-way
90°	9 ft.	18 ft.	12 ft.	24 ft.
60°	9 ft.	18 ft.	18.5 ft.	20 ft.
45°	9 ft.	18 ft.	13.5 ft.	20 ft.
30°	9 ft.	18 ft.	12 ft.	20 ft.
Parallel	8 ft.	22 ft.	12 ft.	20 ft.

NOTE:

[1] Depth of parking space is the measurement from the curb or edge of the parking space toward the interior portion of the space to be occupied by a parked vehicle and not including any part of the aisle or driveway.

a. Each parking space must have a minimum vertical clearance of seven (7) feet.

b. All dead-end parking Lots shall be designed to provide sufficient backup area for the end parking spaces of the parking area.

c. Except for parking spaces permitted within driveways for Single-family Dwellings (including Townhouses), Two-family Dwellings and other Dwellings, parking areas shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle.

e. *Trucks and Trailers*.

(1) Where Truck parking spaces or trailer parking spaces are provided and/or required, parking space and aisle dimensions shall not be less than the dimensions listed in the Table 4.15.3.

Table 4.15.3, Truck and Trailer Parking Space and Aisleway Dimensions.

Angle of Parking	Min. Stall Width	Min. Stall Depth[1]	Min. Aisleway Width One-Way	Min. Aisleway Width Two-way
90°	15 ft.	60 ft.	75 ft.	75 ft.
60°	15 ft.	60 ft.	56 ft.	60 ft.
45°	15 ft.	60 ft.	41 ft.	60 ft.
30°	15 ft.	60 ft.	36 ft.	60 ft.

NOTE:

[1] Depth of parking space is the measurement from the curb or edge of the parking space toward the interior portion of the space to be occupied by a parked vehicle and not including any part of the aisle or driveway.

(2) Each parking space must have a minimum vertical clearance of sixteen (16) feet.

(3) Where Truck parking spaces or trailer parking spaces are provided and/or required, the minimum width shall be fifteen (15) feet, and the minimum depth shall be sixty (60) feet. Aisle widths in Truck parking areas shall be as required in Table 4.15.3.

2. Setbacks for parking areas shall be provided as follows:

a. All parking spaces and access drives shall be located at least ten (10) feet from any multiple dwelling Building, office, commercial, institutional, industrial, and other similar nonresidential Buildings located on the Lot. The ten-foot setback between the parking area and Building shall be for the purpose of providing a pedestrian access walkway and perimeter landscaping.

b. All parking spaces and access drives shall be at least five (5) feet from any side or rear Lot line, except where buffer yards are required, in which case the standards set forth in Section 4.03(B), shall apply. The required setback shall not include screening.

c. No off-street parking area shall be located within a public Right-of-Way.

3. *Separation*.

a. To the extent possible, parking areas shall not be designed to require or encourage vehicles to back into a public or private Street in order to leave the parking areas.

b. Except for parking spaces permitted within driveways for Single-Family Dwellings (including Townhouses), Two-Family Dwellings, and other Dwellings with garages, all paved off-street parking spaces shall be marked with paint or other methods so as to indicate their location.

4. *Curbing*.

a. Curbing within a parking Lot may be required in a land development if determined necessary by the Township Engineer to:

(1) Channelize and control vehicular movement in a safe manner through the parking area.

(2) Direct stormwater and drainage within the parking Lot and to landscaped infiltration areas.

(3) Define parking areas.

(4) Delineate and/or protect perimeter and interior landscaped areas from vehicles.

(5) Separate vehicle movement from pedestrian movement as necessary for safety.

b. When required, curbing shall be constructed in accordance with the Middlesex Township Subdivision and Land Development Ordinance.

c. Construction specifications for curbing to be installed in parking areas shall be submitted with the land development application.

d. Where curbs are provided in a parking Lot, the minimum curb radii shall be designed for appropriate use as approved by the Township Engineer.

5. *Curb Radius*. Where curbs are provided in a parking Lot, a minimum of a five (5) foot radius curvature shall be required for all curblines.

(G) *Off-Street Loading and Unloading*.

1. *Required Spaces or Berths*.

a. Off-Street loading shall be required in accordance with this section prior to the occupancy of any Building or use, to alleviate traffic congestion on Streets. These facilities shall be provided whenever:

(1) A new use is established.

(2) The use of a property or Building is changed and thereby requiring more loading space.

(3) An existing use is enlarged, thereby requiring an increase in loading space.

b. Where off-street loading spaces are required, loading spaces or berths shall be provided for standing, loading and unloading operations, either inside or outside a Building and on the same or adjoining premises as prescribed in Table 4.15.4.

2. *Site Plan*. Each application for a Zoning Permit (or use for which off-street loading spaces are required) shall include a Site Plan pursuant to Section 1.09(B) of this Ordinance showing the proposed layout of the loading area. No Zoning Permit shall be issued for any use for which a loading area is required unless the site plan has been approved or necessary variances have been approved.

3. *Design Requirements*. All off-street loading shall be designed and constructed in compliance with Middlesex Township Subdivision and Land Development Ordinance.

Table 4.15.4, Minimum Required Loading Docks

Use Classification		Requirements
Retail operations and all first floor nonresidential uses with a GFA of up to 20,000 square feet		1 space
Retail operations and all first floor nonresidential uses with a GFA of more than 20,000 sq. ft up to 50,000		1 berth for local delivery trucks
Retail operations and all first floor nonresidential uses with a GFA of more than 50,000 square feet		1 berth for local delivery trucks, 1 berth for semi-trailers
Office Buildings and hotels with a GFA of 100,000 square feet or more		1 berth for semi-trailers for every 100,000 square feet of GFA
Industrial and wholesale operations	Less than 10,000 square feet	1 space
	10,000—40,000 square feet	1 berth for semi-trailers
	40,000—100,000 square feet	2 berths for semi-trailers
	100,000—160,000 square feet	3 berths for semi-trailers
	160,000—240,000 square feet	4 berths for semi-trailers
	240,000—320,000 square feet	5 berths for semi-trailers
	320,000—400,000 square feet	6 berths for semi-trailers
	Each 90,000—above 400,000 square feet	1 additional berth for semi-trailers

4. *Location*.

a. Loading facilities shall not be located on the front of a Building in Mixed-Use zoning districts and shall be hidden from pedestrian and vehicular activity.

b. In no case shall the use of a loading space or berth hinder the movement of vehicles and pedestrians over a Street, Alley or sidewalk.

c. Maneuvering areas shall not be located to require vehicles to back into an Alley or Street when unloading materials.

d. Loading spaces shall be located in the rear of the property of the business to be served.

e. Loading spaces shall not be placed in the front, rear, or side yard minimum Setbacks, as defined in this Ordinance.

5. *Dimensions*. Loading spaces shall provide ample maneuvering space for vehicles as follows:

a. *Loading Space*. Shall be the width and length of a standard parking space as prescribed in Subsection F.1.a above.

b. *Loading Berths for Local Delivery Trucks*. Shall have a minimum width of ten (10) feet, minimum length of twenty-five (25) feet and a minimum vertical clearance of sixteen (16) feet above finished grade.

6. *Loading Berth for Semi-Trailers*. Shall have a minimum width of ten (10) feet, minimum length of sixty (60) feet and a minimum vertical clearance of sixteen (16) feet above finished grade.

7. *Screening*. A solid masonry wall or solid decorative wood or vinyl fence with slats shall be erected where a loading berth or space is located directly across a Street from a dwelling with one or two units. Where a loading space or berth is located directly across from a dwelling with one (1) or more units, mitigation of the vehicular impacts may be required including, but not limited to, restricted loading and unloading times and landscape enhancements.

8. *Off-Street Parking Prohibited*. A loading space shall not be considered an off-street parking space, and therefore shall not be considered a credit to the number of required parking spaces as required under Subparagraph (A) above.

Section 4.16 Open Space Residential Development Standards

(A) In the R-3 District, it shall be optional to utilize one (1) or more contiguous parcels of land having a total area of ten (10) or more acres for an Open Space residential development.

(B) *General*.

1. *Minimum Land Area*. Ten (10) acres.

2. *Utility Requirements*. Adequate public sewer and water facilities are required to service an Open Space residential development. The applicant shall demonstrate to the satisfaction of the Township that adequate sewage treatment and disposal facilities can be provided, consistent with the Middlesex Township Sewage Facilities (Act 537) Plan, and further subject to demonstration of compliance with all applicable regulations of the Pennsylvania Department of Environmental Protection.

3. *Density Requirements*. The maximum number of dwelling units shall equal three and one-half (3.5) units per acre, calculated by excluding the minimum required Open Space.

(C) *Open Space Residential Design Standards*. See Article 2, Section 2.09, Table 2.09.

(D) *Open Space Requirements*.

1. Within an Open Space residential development, a minimum of thirty (30) percent of all land which is part of the Open Space residential development must be Open Space. For purposes of calculating the foregoing thirty (30) percent Open Space any adjoining land conveyed to the Middlesex Township Municipal Authority or to Middlesex Township for purposes of wellhead development or protection may be included as part of the Open Space requirement set forth herein for the adjoining residential development. All Open Space areas shall be clearly depicted on subdivision and/or land development plans.

2. The following areas shall not be calculated as Open Space:

   a. Areas devoted to public Streets or Rights-of-Way.

   b. All areas within fee simple residential ownership and/or single family detached residential Lots.

   c. All impervious areas on residential Lots held within common ownership.

3. In general, the required Open Space to be set aside shall attempt to preserve natural areas such as groundwater recharge areas, wetlands, streams, mature woodlands, and mature hedgerows.

4. *Access to Open Space*. All Lots for dwelling units shall have access to Open Space. Pedestrian access ways from the Street to interior Open Space areas shall be not less than twelve (12) feet in width.

5. *Ownership and Maintenance of Open Space*.

   a. All or part of the Common Open Space may be dedicated to the Township for public use or to the Township or Middlesex Township Municipal Authority (the "Municipal Authority") for municipal use. The Board of Supervisors and the Board of the Municipal Authority, at their sole discretion, shall have the right not to accept any dedication of Open Space.

   b. When Common Open Space is not dedicated to and accepted by the Township for public use or the Township or Municipal Authority for municipal use, it shall be owned, managed, controlled and insured by the developer, or if the developer is not the owner of the property to be developed, then by the owner, or a Homeowner's Association (Association) or Condominium Association, for the use and/or benefit of the residents of the Open Space residential development. If the Common Open Space is deeded to a Homeowners Association, covenants or other legal arrangements shall consist of at least the following:

      (1) Each purchaser (owner) is obligated to participate in the Homeowners Association and to support maintenance of the open areas by paying to the association assessment sufficient for such maintenance and subjecting their properties to a lien for enforcement of payment of the respective assessments.

      (2) The Association shall insure, regulate, maintain and replace any common facilities.

(3) Empower the Township, as well as other purchasers in the development, to enforce the covenants in the event of failure or noncompliance.

(4) Provide for agreement that if the township is required to perform any maintenance work pursuant to the items (1) and (2) above, such purchasers would pay the cost thereof and that the same shall be a lien upon their properties until such cost has been paid.

(a) Other equivalent provisions to assure adequate perpetual maintenance may be permitted if approved by the Board of Supervisors.

(b) Assurance that such covenants or equivalent provisions shall be evidenced by the recordation in the Office of Recorder of Deeds, of a perpetual declaration regarding maintenance of facilities as prescribed hereinabove and identifying the tract and each Lot therein. Such covenants or equivalent legal arrangements shall be submitted for review with the final subdivision/land development plan and shall be reviewed and approved by the Board of Supervisors prior to the granting of final plan approval.

(c) The declaration shall be referenced in the deed or other instrument of conveyance of each Lot of record and shall be made binding on all purchasers, provided that such declaration may, as to subsequent conveyances other than the initial conveyance of each Lot of record, be incorporated by reference in the instrument of conveyance.

(5) Guarantee that any association formed to own and maintain common Open Space will not be dissolved without the consent of the Board of Supervisors and any other specifications deemed necessary by the Board of Supervisors.

(6) The Township will require that a landscape plan/maintenance plan for Open Space be submitted along with the preliminary plan. The landscape plan/maintenance plan will be prepared and maintained by the developer until such time as the developer conveys common facilities to the Association at which time the Association is obligated for maintenance.

(7) The developer or owner of the Open Space shall own and maintain the Open Space, until such time as the Open Space is conveyed to a Homeowners Association or the Township, who shall then be responsible for maintenance and replacement of the Open Space.

(8) Common Open Space, whether owned by the developer or a Homeowners Association shall be insured as follows with limits not less than those stated below:

(a) Bodily/Personal Injury Liability. $1,000,000 each person; $5,000,000 each occurrence.

(b) Property Damage Liability. $1,000,000 each occurrence; $5,000,000 each aggregate.

6. *Future Development of Open Space*. Future development, subdivision, or sale of the required Open Space is prohibited except as provided in Subsection 7, Use of Open Space, below.

7. *Use of Open Space*.

   a. Use of Open Space may include recreation equipment, pavilions, benches, paths and walkways, athletic fields, farming, woodlands, game preserves and similar uses for both passive and active recreation activities and, if dedicated to and accepted by the Township or Municipal Authority, for municipal or other governmental purposes.

   b. Any structure or Building accessory to recreation, conservation, or agriculture may be erected within the Open Space, subject to the approved Open Space plan. The accessory structures or buildings shall not exceed, in the aggregate, one (1) percent of the required Open Space area.

   c. Residential accessory structures, such as sheds, garages, fences, etc. shall not be permitted in the Open Space area.

   d. *Stormwater Management Facilities*. Stormwater management facilities shall be included as part of the minimum required Open Space. However, the applicant must demonstrate to the satisfaction of the Board of Supervisors that such facilities are designed in accordance with the provisions of this section and the Middlesex Township Subdivision and Land Development Ordinance.

Section 4.17 Outdoor Storage of Domestic Composting

The placement of framed enclosure(s) for compost as an accessory residential use is permitted in accordance with the following requirements:

(A) Domestic composting structures shall be subject to all yard requirements for the district in which they are located.

(B) Only waste materials from the residential use shall be deposited in the compost, and in no case shall meat or meat by-products be composted.

(C) All composts shall be properly maintained so as not to become a nuisance to nearby properties.

Section 4.18 Outdoor Storage of Tires

The outdoor storage of tires shall be permitted in the commercial and industrial districts only and shall be subject to the following regulations:

(A) Outdoor storage of tires or tire-derived materials shall be within a six (6) foot solid screened fence with screening as required under Section 4.03 of this Ordinance.

(B) *Storage Restrictions*.

1. When waste tires or tire-derived materials are stored outdoors, each stockpile:

   a. Shall have a horizontal area not greater than 10,000 square feet.

   b. Shall have a vertical Height not greater than eight (8) feet.

c. Shall be separated from any other waste tire stockpile by at least fifty (50) feet measured from the base of the stockpile. This area shall be maintained free of waste, equipment, and structures.

2. No Person shall store waste tires or tire-derived materials:

a. In the one hundred (100) year floodplain.

b. Within three hundred (300) feet of a wetland.

c. Within three hundred (300) feet measured horizontally from an occupied dwelling unit.

d. Within three hundred (300) feet of a Watercourse.

e. Within fifty (50) feet of any property line or fence.

(C) Open burning of waste tires or tire-derived materials shall be prohibited.

(D) Outdoor storage of tires or tire-derived materials shall meet all PA DEP regulations for the storage of tires or tire-derived materials.

(E) Outdoor storage of tires or tire-derived materials shall meet the requirements of the Township Building Code.

(F) Conditions conducive to the harboring of vectors (i.e., rats, mosquitoes, etc.) shall be eliminated.

(G) Upon cessation of waste tires or tire-derived materials storage activities, the property Owner or occupant shall immediately remove all waste tires, tire-derived materials and residuals from the site, and shall provide for the processing or disposal of such materials or wastes in accordance with the PA DEP regulations.

Section 4.19 Performance Standards

(A) *Air Pollution*. To protect and enhance the air quality in the Township, all sources of air pollution shall comply with any and all regulations set forth by the Federal Environmental Protection Agency and PADEP. In addition, the following shall apply:

1. *Odor*. In the C-1, C-2, and I Districts, no odor shall be permitted at any Lot line exceeding the lowest amount set forth for the compounds described in Table III, Odor Thresholds, of Ordinance 5, Physiological Effects, of the Air Pollution Abatement Manual, copyright 1951 by Manufacturing Chemists' Association, Inc. For compounds not described in Table III, odor thresholds may be established by methods indicated in Ordinance 5 of the manual, and no odor shall be permitted at any Lot line exceeding the amount determined by the application of such methods.

2. *Smoke*. In the C-1, C-2, and I Districts, smoke from any chimney, stack, vent, opening or combustion process is prohibited to exceed the U.S. Dept. of the Interior, Bureau of Mines Ringlemann Smoke Chart (May 1967) No. 1 density. However, smoke density exceeding Ringlemann Smoke Chart No. 3 is permitted for up to three (3) minutes total in any one eight (8) hour period.

3. *Particulate Matter*.

a. The rate of particulate matter emission from all sources within the boundaries of any Lot within the C-1, C-2, and I Districts shall not exceed a net figure of one (1) pound per acre of Lot area during any one (1) hour period, after deducting from the gross hourly emission per acre the correction factors set forth in Table 4.19.1.

Table 4.19.1, Allowance for Height Emission

Height of Emission Above Grade (Feet)	Correction (Pounds per Acre)
50	0.01
100	0.06
150	0.10
200	0.16
300	0.30
400	0.50

b. Determination of the total net rate of emission of particulate matter within the boundaries of any Lot shall be made as follows:

(1) Determine the maximum emission in pounds per hour from each source of emission and divide this figure by the number of acres of Lot area, thereby obtaining the gross hourly rate of emission in pounds per acre.

(2) From each gross hourly rate of emission derived in Subsection 3.a above, deduct the correction factor (interpolating as required) for Height of emission set forth in the table, thereby obtaining the net rate of emission in pounds per acre per hour from each source of emission.

(3) Add together the individual net rates of emission derived in Subsection 3.b above to obtain the total net rate of emission from all sources of emission within the boundaries of the Lot; such total shall not exceed one pound per acre of Lot area during any one (1) hour period.

(B) *Electromagnetic Interference*.

1. It shall be unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure, for any other use directly or indirectly associated with these purposes which does not comply with the then current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation, except that for all governmental communications facilities, governmental agencies and government owned plants, the regulations of the Interdepartment Radio Advisory Committee (IRAC) shall take precedence over the

regulations of the Federal Communications Commission, regarding such sources of electromagnetic radiation.

2. Further, said operation in compliance with the Federal Communications Commission or the IRAC regulations shall be unlawful if such radiation causes an "abnormal degradation" in performance of other electromagnetic radiators or electromagnetic receptors of quality and proper design because of proximity, primary field, blanketing, spurious re-radiation, harmonic content, modulation or energy conducted by power or telephone lines. The determination of "abnormal degradation in performance" and "of quality and proper design" shall be made in accordance with good engineering practices as defined in the latest principles and standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers, and the Electronic Industries Association. In case of any conflict between the latest standards and principles of the above groups, the following precedence in the interpretation of the standards and principles shall apply: (1) American Institute of Electrical Engineers, (2) Institute of Radio Engineers, and (3) Electronic Industries Association.

(C) *Fire and Explosive Hazards*. All activities involving, and all storage of, flammable and explosive materials shall be provided at any point with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in the industry. Burning of waste materials in open fires is prohibited at any point. The relevant provisions of State and other local laws and regulations shall also apply to life, property or public welfare in the occupancy of a Structure or premises.

(D) *Glare and Heat*. Any operation producing intense glare or heat shall be conducted within an enclosed Building or with other effective screening in such a manner as to make such glare or heat completely imperceptible from any point along the property line. No heat from any use shall be sensed at any property line to the extent of raising the ambient temperature of air or materials more than five (5) degrees Fahrenheit. Any operation or activity that produces glare shall be conducted so that direct or indirect light from the source shall not cause illumination in excess of five-tenths (5/10) footcandles measured at the property line.

(E) *Liquid or Solid Wastes*. No discharge shall be permitted at any point into any sewage disposal system, or Watercourse, or lake, or into the ground, except in accordance with standards approved by the PA Department of Environmental Protection or other regulating department or agency of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements. There shall be no accumulation of solid wastes conducive to the breeding of rodents or insects.

(F) *Noise*.

1. In all zones, the sound-pressure level for all uses and activities shall not exceed the decibel limits in the octave bands designated in the following table and shall comply with the following standards.

   a. *Permitted Decibel Levels*. At no point at or beyond the property line shall the measured sound level exceed the maximum permitted sound levels designated in the Table 4.19.2.

2. *Measurement*. Sound levels shall be measured with a sound-level meter and associated octave band filter manufactured in accordance with the American National Standards Institute (ANSI). Noises capable of being measured shall be those noises which cause rapid fluctuations of the sound-level meter with a variation of no more than plus or minus two decibels. Noises incapable of being measured, such as those of irregular and/or intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses.

Table 4.19.2, Maximum Permitted Sound Level in Decibels Along the Property Line

Octave Band Cycles Per Second	Residence Districts	Nonresidential Districts
0 to 75	67	73
75 to 150	62	68
150 to 300	58	64
300 to 600	54	60
600 to 1,200	49	55
1,200 to 2,400	45	51
2,400 to 4,800	41	47
Over 4,800	37	43

3. *Exemptions*. The following activities or sources are exempt from these noise standards:

   a. Activities covered by the following: stationary signaling devices, domestic power tools, air-conditioning and air-handling equipment for residential purpose, and refuse collection vehicles.

   b. The unamplified human voice.

   c. Normal Agricultural Operation as defined in Article 6 of this Ordinance.

   d. Fixed-wing aircraft operations.

   e. Construction or routine maintenance of public service utilities.

   f. Temporary activities relating to the construction and maintenance of Buildings and facilities including site preparation between 6:00 AM to 9:00 PM prevailing time.

   g. Church bells or chimes.

   h. The emission of sound for the purpose of alerting persons of an emergency, or the emission of sound in the performance of emergency work.

   i. Occasionally used safety signals, warning devices and emergency pressure relief values.

(G) *Radioactive Radiation*. No activities shall be permitted which emit dangerous radioactivity at any point beyond the property line. The handling of radioactive materials, the discharge of such materials into air and water, and the disposal of radioactive materials, the discharge of such materials into air and water, and the disposal of radioactive wastes, shall be in conformance with

the regulations of the Atomic Energy Commission as set forth in Title 10, Ordinance One, Part 20 - Standards for Protection Against Radiation, as amended; and all applicable regulations of the Commonwealth of Pennsylvania.

(H) *Vibration Hazards*. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or beyond the Lot line; nor shall any vibration produced exceed 0.002g peak at up to 50 cps frequency, measured at or beyond the Lot line using either seismic or electronic vibration measuring equipment. Vibrations occurring at higher than 50 cps frequency or a periodic vibration shall not induce accelerations exceeding 0.001g. Single impulse aperiodic vibrations occurring at an average interval greater than five (5) minutes shall not induce accelerations exceeding .01g.

Section 4.20 Required Street Access

Except for Township approved private streets, each principal use hereafter established which involves buildings or structures for human occupancy shall be located and maintained upon a Lot which abuts a public Street or road for a distance of not less than is required in the applicable district. Upon recommendation by the Planning Commission and approval by the Board of Supervisors, the minimum road frontage can be reduced to not less than fifty (50) feet, provided that:

(A) The Lot created meets all other dimensional requirements of this Ordinance; and

(B) The Lot cannot be further subdivided without the provision of sufficient road frontage to meet the requirements of the applicable zoning district.

Section 4.21 Sale of Personal Vehicles

(A) In any zone, a landowner may display a maximum of two (2) personal passenger or recreational vehicles titled into the property Owner's name for sale at any given time.

(B) Such displays shall be for a maximum of sixty (60) days not more than two (2) times in a calendar year.

(C) Two (2) Signs a maximum of six (6) square feet each may be displayed per vehicle.

(D) All vehicle sale activities shall be in accordance with applicable state regulations.

Section 4.22 Swimming Pools

Swimming pools shall be a permitted accessory use where specified in the district regulations in accordance with the following requirements:

(A) *General Regulations*.

1. The swimming pool shall be intended and be used solely for the enjoyment of the occupants of the principal use of the property on which it is located.

2. No swimming pool shall discharge water or be drained into a sanitary sewer system or a storm sewer system.

(B) *Location and Setbacks*.

1. The swimming pool, or accessory structures adjacent thereto, shall be located no closer than ten (10) feet from adjoining property lines measured from the water's edge.

2. The swimming pool, or accessory Building(s) adjacent thereto, shall be located no closer than ten (10) feet from the principal Building.

3. Swimming pools shall not be located in the front yard.

(C) *Barrier Requirements*. All swimming pools must comply with the Township Building Code.

Section 4.23 Temporary Portable Storage Units and Roll-Off Dumpsters

(A) It shall be a violation of this Ordinance for any Person or anyone acting as his agent or on his behalf to place or permit the placement of a Temporary Portable Storage Unit (hereinafter "unit") or Roll-off Dumpster (hereinafter "dumpster") on any property which that Person owns, rents, occupies or controls without complying with the standards of this Article.

(B) *Permit Required*. No Person shall place upon, cause to be placed upon, or permit to remain on a property located in the Township a unit or dumpster without first obtaining a zoning permit from the Township. In addition to the permit application requirements, the application shall also include the following information:

1. Applicant's relationship to the property (Owner, renter, occupier, or controller);

2. Address of the property upon which the unit or dumpster will be located;

3. Proposed delivery and removal dates of the unit or dumpster;

4. Any related Building permit numbers;

5. A sketch of the proposed location or placement for the unit or dumpster; and

6. The name, address and telephone number of the company who owns the unit or dumpster.

(C) *Duration*.

1. The unit or dumpster shall be located at the permittee's specified property location address for a maximum of thirty (30) days, including the days of delivery and removal. At the expiration of the thirty (30) day period, the Applicant may seek to extend the permit for an additional thirty (30) days by requesting an extension of cause from the Zoning Officer. No extensions shall be granted in excess of one hundred and eighty (180) days, including the initial period, except in the event of a catastrophic fire or other event causing substantial damage to the Structure.

2. *Construction, Renovation, and Demolition Exception*. Notwithstanding the provisions of Subsection (C)1, a dumpster shall be permitted for the period that a valid Building permit is issued for any construction, reconstruction, alteration, renovation or demolition of a Structure on a property located in the Township, upon compliance with all other provisions of this Ordinance. A valid Building permit shall be submitted with the permit application. All units or dumpsters must be removed prior to the occupancy of the Building. The Township shall not issue an occupancy permit until all units or dumpsters are removed from the property.

(D) *Location*. A permit granted under this Ordinance shall limit placement of a unit or dumpster to a single specified location that is identified in the permit. A unit or dumpster shall be located on a property or a Street in accordance with the following criteria:

1. A unit or dumpster shall not be placed closer than ten (10) feet from a property line unless placed on an existing impervious driveway.

2. No unit or dumpster may be placed so as to impede a parking area, loading area, aisle, driveway or cartway.

3. No unit or dumpster shall be placed within the Street Right-of-Way. However, in instances where placing the unit or dumpster in the Right-of-Way is the only option, then approval in writing must be obtained from the Township.

4. The unit or dumpster shall be placed in the first available location in the following order of priority: rear driveway (furthest point accessible from the Street), rear yard, front/side driveway, side yard, front yard, Street.

5. No unit or dumpster shall be placed on or over any curb or sidewalk.

6. The location of the unit or dumpster shall not impede clear sight lines.

7. The placement of the unit or dumpster shall not damage any portion of the public Street, including the berm or shoulder. Any damage to the Street, berm, or shoulder shall be paid and repaired by the permittee based on the review and approval by the Township Engineer. The permittee shall also be responsible for the cost of Township Engineer's inspection of the repair.

8. No unit or dumpster shall be located in a floodplain.

(E) *Contents*. The contents of a unit or dumpster shall comply with the following criteria:

1. No unit or dumpster shall contain any illegal or hazardous material, solid waste, or recyclable materials;

2. A dumpster must be emptied within three days of being filled to capacity;

3. A unit shall be removed from the property or Street within forty-eight (48) hours of being filled to capacity or filled to a point that no further personal property is to be added to the unit;

4. No unit or dumpster shall cause any foul, noxious or offensive odor to be emitted; and

5. At any reasonable time, the Zoning Officer or his or her designated agent may inspect the contents of a unit or dumpster to ensure compliance with this Ordinance.

(F) *Responsibility*. It shall remain the permittee's obligation to ensure that a unit or dumpster is secured such that it does not endanger the safety of persons or property in the vicinity. The permittee shall maintain the unit or dumpster in good condition, free from deterioration, weathering, discoloration, graffiti, rust, ripping, tearing, holes and breaks at all times. Permittee is responsible to ensure the presence of reflective materials or illuminating marks on a minimum of four sides of the unit or dumpster. In addition to compliance with this Ordinance, permittee shall comply with all other federal, state or local statutes, rules and regulations applicable thereto.

(G) *Revocation and Removal*. All units or dumpsters shall be removed upon expiration of the permit. Any approved permit can be revoked by reason of the permittee's false statement or omission. The Zoning Officer can revoke any permit and/or, without notice, immediately remove the unit or

dumpster if the permittee violates this Ordinance; if the dumpster becomes a safety hazard; or if the unit or dumpster is not removed from the property prior to the expiration of the permit (or by direction of law enforcement officer or Township Public Works Director for safety reasons. The cost of removal by the Township shall be assessed against the property on which the unit or dumpster is located and filed as a lien by the Township.

(H) *Size*. A unit or dumpster shall not exceed eight (8) feet six (6) inches in Height, ten (10) feet in width, or twenty (20) feet in length.

(I) *Emergency*. In the event of high winds, weather conditions, or a natural disaster in which a unit or dumpster may become a physical danger to persons or property, the appropriate Township official or law enforcement officers may require the immediate removal of such unit or dumpster.

(J) *Preemption*. Notwithstanding any of the provisions of this Ordinance, if the Commonwealth of Pennsylvania at any time has or places restrictions on roads over which it has jurisdiction that are more restrictive than the requirements of this Ordinance, then those restrictions shall supersede those of this Ordinance. If the Commonwealth of Pennsylvania notifies a permittee that he is in violation of a state standard, then such violation shall automatically rescind and void any permits issued under this Ordinance.

(K) *Liability Insurance*. When placing a unit or dumpster in the public Street Right-of-Way is the only option, as a condition of the issuance of a zoning permit under Subsection (B)3., the applicant or property owner shall provide evidence of current commercial general liability insurance coverage as evidenced by an certificate of liability insurance, in an amount of at least $1,000,000 per occurrence and $2,000,000 aggregate for bodily injury and property damage and naming Middlesex Township as an additional insured. The certificate of liability insurance shall be subject to approval by the Township Solicitor and shall note a policy effective date and expiration date that covers the time period for which the permit has or will be issued and any applicable time period for which the permit may be extended.

(L) *Indemnification*. The applicant or property owner shall execute an indemnity agreement, in a form reasonably acceptable to Middlesex Township, agreeing to indemnify, save harmless and defend the Township, its elected officials, appointees, agents, servants, and employees and each of them against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and reasonable attorney's fees, for or on account of any bodily injury to any person or any death at any time resulting from such injury or any damage to any property, which may arise or which may be alleged to have arisen out of or in connection with the placement or utilization of the unit or dumpster in the public Street Right-of-Way.

Section 4.24 Temporary Structures for Dwelling Purposes

Notwithstanding the requirements specified under Section 4.28(B) of this Ordinance, no tent, cabin, mobile home, garage, basement or other temporary structure, whether of a fixed or mobile nature, may hereafter be erected, established, or used for any dwelling purpose for any length of time unless approval for temporary use is granted by the Board of Supervisors.

Section 4.25 Toxic and Hazardous Substance Storage

Storage of toxic and hazardous substance shall meet the requirements of the Middlesex Township Building Code.

Section 4.26 Transit Bus Stops

Transit bus stops, which include both sheltered and non-sheltered infrastructure facilities that provide passengers safe access to both fixed-route and demand responsive public transportation services, shall comply with the requirements of this Ordinance, as well as the following specific criteria:

(A) Bus stop infrastructure, including ADA loading pads, bus passenger benches, and bus shelters, as well as bus stop location signs and bus stop passenger information signs, shall be permitted by right in all zoning districts, including within public Rights-of-Way, and shall be considered an accessory use that can stand alone without the accompanying principal use.

(B) Bus stop infrastructure shall be exempt from minimum Lot size, Open Space, yards, and setback requirements of the governing zoning district(s).

(C) The location and design of the bus stop infrastructure shall be reviewed and approved by the applicable transit agency, Township, and in instances where the bus stop is proposed to be located within a state-owned Right-of-Way, PennDOT Engineering District 8-0. The transit agency shall provide written documentation certifying that a location is an existing or potential future bus stop. Such documentation should include an executed shelter location agreement with the property owner.

(D) Whenever an ADA loading pad, bench for a bus stop, and/or bus shelter is provided, the applicable off-street parking requirements for the Lot's principal use may be reduced by one or more vehicular parking space(s) for each bus stop location.

(E) Bus stop location signs and bus stop passenger information signs installed and maintained by the transit agency shall be permitted within the public Right-of-Way and on private property and shall be exempt from the Sign requirements specified under Article 5 of this Ordinance.

Section 4.27 Trash Dumpsters, Commercial

(A) In addition to the other applicable requirements of the Township, commercial trash dumpsters shall be governed by the following provisions:

1. *Setbacks*. Trash Dumpsters shall be located in accordance with the following setbacks, except for Neighborhood Development Design projects whereby the setback requirements specified under Section 4.11(F)4.c. of this Ordinance shall apply:

    a. Twenty-five (25) feet from any residentially zoned or used property.

    b. Five (5) feet from any non-residentially zoned or used property.

    c. Twenty (20) feet from any public Street.

2. *Service Access*.

    a. Placement of trash dumpsters and enclosures shall be planned and constructed in a manner that allows unobstructed access to each trash dumpster and the unobstructed opening of the gates during the disposal process.

    b. Trash dumpsters shall not be located in such a manner that the service Vehicle shall block any public Street or Alley.

    c. When trash dumpsters are to be serviced from an Alley, enclosures shall be angled thirty (30) degrees and recessed off the Alley approximately six (6) feet (recessing

the enclosure is necessary so that gates do not open into the Alley to obstruct traffic and so that a Clear Sight Triangle can be achieved).

3. *Screening*. Shall be provided in accordance with Section 4.03 of this Ordinance.

4. *Minimum Size*.

a. All trash dumpsters shall be enclosed on three (3) sides by a six (6) foot tall enclosure to ensure that that the trash area is:

(1) Not visible from the Street, and

(2) Not visible from any single- or two-family home within fifty (50) feet.

b. Each screened enclosure shall provide a minimum ten (10) foot interior length and width subject to the following requirements:

(1) Each enclosure shall provide a minimum of twelve (12) inches of clear space between each side of the trash dumpster (including lifting flanges) and the adjacent wall surface of that enclosure, or any other trash dumpsters within that same enclosure; and

(2) Commercial trash dumpsters may be sized appropriately based on specific Use requirements.

c. Permitted materials for trash enclosures include materials that provide solid, opaque screening, such as:

(1) Masonry (such as concrete block, brick, or stone);

(2) Chain link with privacy slats; or

(3) Solid wood (real or composite) or vinyl fencing.

5. *Service Gates*.

a. All screened trash dumpster enclosures shall have gates and their construction shall be of sturdy metal frame and hinges with an opaque facing material consisting of wood or other solid material. Metal or plastic slats inserted in chain link are permitted and shall be maintained.

b. Service gates shall incorporate gate stops and latches that are functional in the fully open and closed positions.

c. Gates that swing out from the container shall be set back from the property line at least a distance equal to the width of the gate. Hinge assemblies shall be strong and durable so that access and servicing gates function properly and do not sag.

6. *Applicability*. This subsection applies to any and all Uses of land or Structures, including existing Uses and Structures; provided that, the requirements of this subsection shall not apply to any dumpster temporarily located on property for the receipt of construction or demolition waste during ongoing construction, renovation, demolition, or similar activities.

Section 4.28 Unenclosed Storage of Recreational Vehicles, Boats, Campers, Trailers, and Trucks

(A) *Recreational Vehicles, Boats, Campers, Trailers, and Trucks*.

1. Within the NMC, A, R-1, C-2, and I Zoning Districts, the unenclosed storage of recreational vehicles, campers, travel trailers, commercial trucks, boats and trailers is permitted.

2. Within the R-2 and R-3 Zoning Districts, the unenclosed storage of recreational vehicles, campers, travel trailers, commercial trucks, boats, and trailers is permitted only according to the requirements specified below.

3. Within the MU-1 and MU-2 Zoning Districts, the unenclosed storage of recreational vehicles, campers, travel trailers, commercial trucks, boats, and trailers is prohibited.

4. For purposes of this section, recreational vehicles, campers, travel trailers, boats and trailers are divided into two separate categories, as follows.

   a. *Class I Vehicles*. Those recreational vehicles, campers, travel trailers, boats and trailers used solely for the transport of the residents' recreational vehicle(s) that are no more than twenty-five (25) feet in length, as measured to the vehicle's outermost edges, nor exceed a Height of ten (10) feet, as measured from the ground to the highest point of the main body of the vehicle.

   b. *Class II Vehicles*. Those recreational vehicles, campers, travel trailers, boats and trailers used solely for the transport of the residents' recreational vehicle(s) that are more than twenty-five (25) feet in length, as measured to the vehicle's outermost edges, exceed a Height of ten (10) feet, as measured from the ground to the highest point of the main body of the vehicle, or both.

5. Recreational vehicles or campers with expandable roofs or sides shall be stored in the stowed position. The temporary parking of a Class I or II recreational vehicle or camper in a set-up position for a period not to exceed seventy-two (72) hours is permitted, so long as the vehicle is set back no less than five (5) feet from the edge of Cartway.

6. Vehicle Height shall not be measured on vehicle accessories (e.g., air conditioners, vents, hatches, masts, antennas, outrigging fishing poles, etc.), but shall be measured to the highest point of any flybridge or other boat console:

7. The storage of Class I vehicles registered to the landowner or tenant of a property shall be permitted subject to the following requirements:

   a. One (1) vehicle plus one (1) vehicle per one half (1/2) acre of Lot area up to a maximum of three (3) vehicles, so long as each unit is set back no less than a horizontal distance equal to the zone's accessory use setbacks in the side and rear yard, and five (5) feet from the edge of the Right-of-Way in the front yard.

   b. A paved surface shall be provided for the storage of Class I vehicles in the front yard.

   c. All areas used for the storage of Class I vehicles shall be maintained to keep vegetation properly trimmed and debris or litter disposed of regularly.

   d. All vehicles shall maintain required licensure and prevent the leakage of fuels, lubricants, or both, into the ground.

8. The storage of one (1) Class II vehicle is permitted subject to the following requirements:

   a. Vehicles stored in the side or rear yard shall be set back a horizontal distance equal to the zone's accessory use setbacks.

   b. Vehicles stored in the front yard on a paved or gravel surface shall be permitted, so long as the vehicle is set back no less than five (5) feet from the edge of Cartway.

   c. All areas used for the storage of Class II vehicles shall be maintained to keep vegetation properly trimmed and debris or litter disposed of regularly. All vehicles shall maintain required licensure and prevent the leakage of fuels, lubricants, or both, into the ground.

9. The storage or parking of one (1) commercial Truck upon any residential Lot is permitted. For the purpose of this section, commercial trucks shall include those that do not exceed a gross vehicle weight (Truck plus rated payload) of ten thousand (10,000) pounds. In addition, the parking or storage of any trailer other than those accessory to a principal residential use is expressly prohibited.

10. No recreational vehicles, campers, travel trailers, commercial trucks, boats and trailers may be parked within the Street Right-of-Way for longer than twenty-four (24) hours without a special permit from the Board of Supervisors.

(B) *Temporary Use*. Where a Building permit has been issued for the construction or alteration of a Building, a temporary permit for one (1) motor home or camping trailer to be used as a temporary residence may be issued for a period not to exceed six (6) months. Said temporary permit may be extended for one (1) additional period of six (6) months if it can be shown that construction has been diligently pursued and that justifiable circumstances require such an extension. Said residence may be occupied during the term of the temporary permit and shall be situated upon the Lot for which the Building permit has been issued. Prior to the issuance of such a temporary permit the location of said residence on the Lot shall be subject to Board of Supervisors approval. The Board of Supervisors may attach to their approval whatever conditions it deems necessary to carry out the intent of this Ordinance.

Section 4.29 Vehicular Access

(A) *Purpose*. Whenever motor vehicle access is provided from the Street onto the Lot, the following regulations shall apply.

(B) *Required Vehicular Access*. Every Building hereafter erected or moved to either a newly subdivided or vacant Lot which existed at the time of enactment of this Ordinance, shall be on a Lot adjacent to a public Street Right-of-Way. The erection of Buildings without approved access shall not be permitted. The erection of a principal Building on any Lot which existed at the time of the enactment of this Ordinance and does not have frontage on a public Right-of-Way shall be permitted if the Applicant provides proof of access to the property in the form of a legal document recorded with the Cumberland County Recorder of Deeds. If the existing document does not address access rights and maintenance responsibilities between the landowner and effected parties, or if no such document exists, a new document shall be recorded that does address these issues. In addition, the landowner shall enter into a binding legal agreement with the Township prepared by the Township Solicitor outlining the responsibility of each party as it pertains to the private Right-of-Way.

(C) Access to the Lot shall comply with the following requirements:

1. All design standards specified for Driveways under Section 703.I of the Middlesex Township Subdivision and Land Development Ordinance shall apply;

2. Not more than two (2) driveways for each one hundred (100) feet of frontage on any Street or private road are permitted for each Lot;

3. In the residential districts, Single-Family Attached (Townhouse) driveways may Abut so long as all other requirements of this section are met;

4. No residential driveway shall be closer to a side property line than three (3) feet except shared driveways as may be permitted by the Township Subdivision and Land Development Ordinance. No portion of a driveway, including radius, may cross an extended side property except for single-family attached driveways;

5. Nonresidential driveways shall not cross the Street Right-of-Way commercial and industrial districts within twenty (20) feet of a property line unless two adjoining property owners mutually agree in a legally recorded instrument (i.e., deed, recorded subdivision) to a common driveway;

6. Prior to the issuance of a zoning permit, a site plan shall be submitted which includes the driveway location, width, construction specifications, sight distance and distance from property lines. A zoning permit shall be required when a driveway is newly installed, added, enlarged or relocated. Driveways located on a state road shall obtain a highway occupancy permit from the Pennsylvania Department of Transportation prior to the issuance of a zoning permit; and

7. Any new residential driveway required to be paved shall be constructed within a period of one (1) year from the issuance of a permit for the improvement upon the Lot. Any added, enlarged or relocated driveway shall be paved within one year of the issuance of a zoning permit. Any new nonresidential driveway shall be paved prior to receiving an occupancy permit or as soon as weather allows (referring to a paving season).

Section 4.30 Yard/Garage Sales

(A) In addition to the other applicable requirements of the Township, Yard/Garage Sales shall also be governed by the following provisions:

1. A Yard/Garage Sale shall include only the occasional sale of personal effects and shall not include wholesale sales.

2. A Yard/Garage Sale may be conducted no more than four (4) times per calendar year and last no longer than 48 hours each.

3. Yard/Garage sales shall only be conducted by the owner of the Lot or tract where such activity is conducted or by an occupant of the dwelling unit thereon erected.

ARTICLE 5 SIGN REGULATIONS

Section 5.01 Purpose and Intent

(A) Signs may be erected and maintained only when in compliance with the provisions of this Section and any and other ordinances and regulations relating to erection, alteration, or maintenance of signs and similar devices. Zoning permits will be required for the erection, alteration, and maintenance of all signs and billboards as specified in this Section.

(B) The Sign regulations, controls and provisions set forth in this Section are made in accordance with an overall plan and program for the provision of public safety, land development, preservation of property values, and the general welfare of the Township and are intended to achieve the following objectives:

1. To aid in traffic control and traffic safety;

2. To preserve and protect property values;

3. To lessen congestion of land and air space;

4. To provide against undue concentrations of signs that distract and endanger traffic safety and traffic flow;

5. To establish reasonable standards for commercial and other advertising through the use of signs in order to maintain and encourage business activity and development;

6. To recognize the rights of the public in roads, Streets, highways and the areas adjacent to those roads, Streets and highways;

7. To preserve the wholesome and attractive character of the Township; and

8. To recognize that the general welfare includes a community that shall be beautiful as well as healthy, spacious, and well balanced in its growth and development.

(C) *Protection of First Amendment Rights*. Any Sign, display or device allowed under this Ordinance may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit or to a commodity or service for sale, and that complies with all other requirements of this Ordinance.

Section 5.02 General Sign Requirements

(A) *Sign Construction and Maintenance*.

1. All Signs must be constructed and maintained in accordance with regulations in the duly adopted Township Building code and property maintenance code.

2. Signs must be constructed of durable material and maintained in good condition.

3. No Sign shall be maintained within the Township in such a state of disrepair as to have the appearance of neglect, that is rotting or falling down, that is illegible, or has loose parts separated from fastenings.

4. Whenever a Sign becomes structurally unsafe or endangers the safety of a Building or premise or endangers the public safety, the Zoning Officer shall give written notice to the owner of the

premises on which the Sign is located that such Sign must be made safe or removed within five (5) days.

(B) *Sign Location*.

1. Except in the case of Billboards, only those signs referring directly to services, materials, business entity or products made, sold, or displayed or business operated on the premises shall be permitted.

2. No Sign shall be placed in such a position as to endanger pedestrians, bicyclists, or traffic on a Street by obscuring the view or by interfering with official Street Signs or signals by virtue of position or color.

3. No Sign may occupy a Clear Sight Triangle.

4. Signs and their supporting Structures shall maintain clearance and noninterference with all surface and underground utility and communications lines or equipment.

5. No Sign shall be erected or located as to prevent free ingress or egress from any window, door, or fire escape.

(C) *Sign Area*.

1. The area of a Sign shall mean the area of all lettering, wording, and accompanying designs, logos, and symbols, together with the background, whether open or closed, on which they are displayed, including any border framing or decorative attachments, but not including any supporting framework, bracing, or trim which is incidental to the display, provided that it does not contain any lettering, wording, or symbols.

2. Where the Sign consists of individual letters, designs, or symbols attached to a Building, awning, wall, or window, the area shall be that of the smallest rectangle which encompasses all the letters, designs, and symbols.

3. *Multifaceted Signs*. In computing square foot area of a double-faced Sign, only one (1) side shall be considered, provided both faces are identical and parallel. Otherwise, all sides shall be considered in calculating the Sign area.

4. *Multidimensional Signs*. Signs that consist of, or have attached to them, one (1) or more three-dimensional or irregularly shaped objects, shall have a Sign area of the sum of two (2) adjacent vertical Sign faces of the smallest cube encompassing the Sign or object.

5. If elements of a Sign are movable or flexible, such as a flag or banner, the measurement is taken when the elements are fully extended and parallel to the plane of view.

6. The permitted maximum area for all signs is determined by the Sign type and is stipulated in Tables 5.09.1, 5.09.2, 5.09.3, and 5.09.4 under Section 5.09.

7. Within an area regulated by Section 2.18 Floodplain Conservation District of this Ordinance, no Sign shall exceed a total area of six (6) square feet, nor shall the cross-sectional area of any portion of the Sign below the Base Flood Elevation be greater than fourteen (14) square inches.

8. In the event that a symbol, trademark or other such figure is used as a signpost or standard that could be construed to indicate or identify a particular use or business, that symbol, trademark or figure is to be computed as part of the total allowable Sign area.

(D) *Sign Height*.

1. No Sign or part thereof (including braces, supports or lights) shall exceed the height of twenty (20) feet if erected at the Right-of-Way line of the Street, road or highway adjoining the premises on which the Sign is located, plus one (1) foot additional height for each three (3) lineal feet that said Sign is located from such Right-of-Way line to the nearest part of the Sign. Regardless of its distance from the right-of way line, no portion of any Sign shall exceed thirty-five (35) feet in height measured from the actual grade of the premises directly below the face of the Sign (exclusive of mounds or other additions to the grade level) to the highest part of the Sign, unless otherwise specified in Tables 5.09.1, 5.09.2, 5.09.3, 5.09.4.

2. Sign Height shall be measured as the distance from the highest portion of the Sign to the mean finished grade of the Street closest to the Sign.

3. Clearance for freestanding and projecting Signs shall be measured as the smallest vertical distance between finished grade and the lowest point of the Sign, including any framework or other structural elements.

4. The permitted maximum height for all Signs is determined by the Sign type as specified in Tables 5.09.1, 5.09.2, 5.09.3, 5.09.4.

(E) *Sign Spacing*. The spacing between Sign Structures shall be measured as a straight-line distance between the closest edges of each Sign.

(F) *Sign Illumination*.

1. All electrically illuminated signs shall be constructed to the standards of the National Board of Fire Underwriters, and in accordance with the applicable regulations in the duly adopted Township Building code.

2. Signs may be illuminated, unless otherwise specified herein, consistent with the following standards:

   a. Light sources to illuminate Signs shall neither be visible from any Street Right-of-Way, nor cause glare hazardous or distracting to pedestrians, vehicle drivers, or adjacent properties.

   b. No Sign located within three hundred (300) feet of any traffic light shall be illuminated with red, green, or yellow lights.

   c. No more than 0.5 foot-candle of light shall be detectable at the boundary of any abutting property.

   d. *Hours of Illumination*.

      (1) Signs on non-residential properties may be illuminated from 5 AM (prevailing time) prevailing time) until 11 PM (prevailing time), or one-half (½) hour past the close of business of the facility being identified or advertised, whichever is later.

(2) Signs shall provide an automatic timer to comply with the intent of this Article.

e. *Brightness*. and digital displays are subject to the following brightness limits:

(1) During daylight hours between sunrise and sunset, luminance shall be no greater than five thousand (5,000) nits.

(2) At all other times, luminance shall be no greater than two hundred fifty (250) nits.

(3) Each Sign must have a light sensing device that will automatically adjust the brightness of the display as the natural ambient light conditions change to comply with the limits set herein.

f. *Message Duration*. See Changeable Signs, Section 5.11(A)3.

g. Flags shall be permitted to be illuminated from dusk till dawn and each flag shall be illuminated by a source or sources with a beam spread no greater than necessary to illuminate the flag.

3. *Types of Illumination*.

a. *External*. Externally illuminated Signs are subject to the following regulations:

(1) The source of the light shall be concealed by translucent covers.

(2) External illumination shall be by a steady, stationary light source, shielded and directed solely at the Sign. The light source shall be static in color.

b. *Internal*. Internally illuminated Signs are subject to the following regulations:

(1) Internal illumination, including neon lighting, shall be static in intensity and color.

(G) *Sign Landscaping*. The landscaping plan for any permanent freestanding Sign requiring a permit shall be created as follows:

1. The Sign shall be centrally located within a planted area (island) at least equal to the allowable area of a single face or advertising side for the subject Sign. The planted area shall also include ornamental shrubbery to minimize the visibility of poles, supports and braces of such Sign.

2. The island shall be a minimum of one (1) foot in height and formed from materials such as, but not limited to, stone, brick, or landscape timbers. The island shall be maintained to keep it free of weeds, debris, and brush.

3. A sketch of the Sign and island shall be submitted with the Sign permit application for review and approval by the Zoning Officer.

(H) *Sign Abandonment*. Signs that are abandoned shall be removed by the persons responsible for the erection and/or maintenance thereof within thirty (30) days after notice of the abandonment to such persons by the Zoning Officer. If such persons fail or refuse to remove such abandoned signs after the notice aforesaid, the Zoning Officer may remove the signs at the expense of the persons responsible for the erection and/or maintenance thereof.

Section 5.03 Sign Permits

(A) Sign permits documenting compliance with this Section shall be required for Permanent (P) and Temporary (T) signs as noted in the tables in Section 5.09. In addition to the Sign Permit, a Building Permit is required for certain signs in accordance with the duly adopted Township Building code. Application shall be made on forms to be provided by the Zoning Officer. Permits must be kept on the premises (except for off-premise signs) where the Sign is displayed and must be produced and exhibited to the Zoning Officer upon request.

(B) *Administration and Enforcement*.

1. The Zoning Officer shall examine all applications for permits to erect and/or maintain signs and shall issue permits for signs which conform to the requirements of this part. The Zoning Officer, or his designees, shall record and file all applications, conduct an inspection of all signs and make such reports as the Board of Supervisors may require.

2. When the Zoning Officer finds that any Sign has been constructed, structurally changed, altered or erected, or is being maintained in violation of the provisions of this part, he shall notify promptly the owner, lessee or lessor thereof in writing. If the owner, lessee, or lessor fails to remove or alter the Sign to comply with the provisions of this part within ten business (10) days of the mailing of written notice, the Zoning Officer shall commence enforcement proceedings as provided in this Ordinance.

3. When the Zoning Officer shall find any Sign which is in immediate peril to persons or property, he shall be empowered to order it to be removed and the costs of such removal shall be borne by the owner or lessor and shall constitute a lien upon the premises.

(C) *Permits for New Signs, Alterations, or Relocation*.

1. No Sign hereafter shall be erected, structurally changed, altered, or moved until a permit has been obtained from the Zoning Officer. Such permit shall be issued only after the Zoning officer is satisfied that such Sign will comply with all applicable provisions of this Ordinance.

2. An application for a Sign permit shall be made on the forms provided by the Township and shall contain or have attached thereto the following information and documentation:

   a. The name(s), address(es) and telephone number(s) of the applicant.

   b. Name and address of the owner of the land on which the Sign is to be erected, altered, or relocated, together with the owner's written consent.

   c. A site plan drawn to scale, showing the location of the Building, structure or Lot to which the Sign is to be attached or erected, and showing the position of the Sign with reference to the adjoining buildings, property lines and Streets;

   d. A drawing to scale, showing the design of the Sign, materials to be used, colors, lighting, lettering, method of construction and means of attachment to the Building or the ground. For a directional Sign or an on-premise Sign, advertising activities being conducted on the real property, the drawing shall also contain an accurate representation of the advertising or informative contents of the Sign.

   e. Name of the person, firm, corporation, or association erecting, altering or moving said Sign.

f. A landscaping plan for any freestanding signs shall be provided in accordance with Section 5.02(G) of this Ordinance.

g. Any other information as the Zoning Officer shall require in order to show full compliance with this and all other applicable ordinances of the Township.

3. After a Sign permit has been issued, the owner of the Sign shall promptly notify the Zoning Officer within thirty (30) calendar days of the completion of the permitted activity and provide a photograph of the completed Sign. The Zoning Officer shall inspect the Sign and, if it is finished in accordance with permit, the permit shall be validated by signature of the Zoning Officer.

4. *Permits for Existing Signs*. All owners of signs in existence at the time of the effective date of this part of the Ordinance who do not hold permits, shall make application for a Sign permit within ninety (90) calendar days of said effective date. After receipt of an application to permit an existing Sign, the Zoning Officer shall inspect the Sign. If the Sign is safe and in good repair, the permit shall be issued to the applicant.

5. *Permit Fees*. Every applicant for a permit hereunder shall pay to the Township a fee regulated by this part in accordance with a fee schedule adopted by Resolution of the Board of Supervisors specified under Section 5.11 of this Ordinance.

6. If there is any change in location or dimensions of any Sign, or in advertising or informative contents of a Sign, a new permit shall be required. The following operations shall not be considered as creating a Sign and shall not require a permit:

a. *Replacing Copy*. The changing of the advertising copy or message on an approved painted or printed Sign or on approved signs that are specifically designed for the use of replaceable copy.

b. The Sign face (gross surface area portion of the Sign) may be changed if the new Sign face is equal to or reduced in height, Sign area, and/or projection.

c. Maintenance, painting, repainting, cleaning and other normal maintenance and repair of a Sign or a Sign structure, unless structural change is made or would otherwise render the Sign contrary to any ordinance, code or regulation.

7. *Revocation of Permits*.

a. The Zoning Officer shall revoke any Sign permit if the Sign, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the Sign not to be in conformity with this Ordinance. Signs must be properly maintained, properly painted, and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the current owner of the Sign and the current owner of the land upon which the Sign is erected to conform or to remove the Sign. The Sign shall be made to conform to the permit requirements within thirty (30) calendar days from the date of the notice, or, the Zoning Officer shall revoke the Sign permit and the subject Sign shall be removed by the owner of the Sign or the owner of the premises.

b. Revocation of a permit shall not be cause for refund of the permit fee.

8. *Expiration of Sign Permit*.

a. If the Sign authorized by any Sign permit has not been erected or completed within one hundred twenty (120) calendar days from the date of issuance of that permit, the Sign permit shall be deemed expired.

b. An expired Sign permit may be renewed within thirty (30) calendar days from the expiration date for good cause shown and upon payment of a permit extension fee, as established by resolution of the Supervisors.

9. *Inspections*. Upon expiration of the time permitted for construction, creation, or installation of a Sign in an issued Sign Permit, the Zoning Officer shall cause an inspection of the Sign for compliance with the application for such permit and supporting materials with this Ordinance and all other Township Ordinances. If the construction is not substantially complete at the time of inspection, the permit shall remain lapsed. If the construction is substantially complete but not in full compliance with the application for such permit and supporting materials, this Ordinance, and all other Township Ordinances, the Zoning Officer shall give the Owner or Applicant notice of the deficiencies and extend the Sign Permit an additional thirty (30) calendar days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. If a Sign Permit has lapsed, no work shall be performed upon the Sign unless and until a new Sign Permit is obtained.

10. *Removal of a Violating Sign*. After issuing an enforcement notice that complies with the Pennsylvania Municipalities Planning Code Section 616.1, as amended, the Zoning Officer shall have the power to, and may remove, cause to be removed, or order the removal of signs that are in violation of this Ordinance. The Zoning Officer has the option of waiving the removal of a Sign if the business is for sale. The removal will be completed at the expense of the owner of the Sign or the owner of the premises, or both. Removal shall take place in the following instances.

a. When any Sign constructed after the adoption of this Ordinance or any amendment to it is not in conformance with the provisions of this Ordinance.

b. If the Zoning Officer finds a Sign that presents immediate peril to persons or property, the Sign shall be removed.

c. When any Sign, whether existing on, or erected on or after the effective date of this Ordinance, is declared obsolete for any of the following reasons:

(1) Any directional or off-premises Sign which refers or pertains to a business or facility, the affairs of which are discontinued for a period of six (6) months or more.

(2) Any Sign which pertains to a time, event or purpose that no longer exists or applies.

(3) On premises signs for any businesses or facilities which have been vacant, unoccupied or not actively being offered for sale for a period of six (6) months or more.

11. *Time of Compliance, Nonconforming Signs and Signs Without Permits*. Except as otherwise provided herein, the Owner of any Lot or other Premises on which exists a Sign for which there is no current and valid Sign Permit, shall be obligated to remove such Sign.

Section 5.04 Nonconforming Signs

(A) Any Sign lawfully existing or under construction before the date of enactment of these Sign regulations or upon any date on which these regulations are amended, which does not conform to one (1) or more of the applicable portions of this Ordinance, and any Sign which is accessory to a nonconforming use, shall be deemed a Nonconforming Sign. Permits for these signs shall be requested from the Township Zoning Officer within ninety (90) calendar days after the adoption of this Ordinance. Permits for these signs shall be marked as "Non-Conforming Sign Permits."

(B) All such nonconforming signs will be required to conform at such time as seventy-five (75) percent or greater of the Sign area is changed in any way, including, but not limited to, relocation, design, lighting and/or material composition.

(C) *Modifications*. Nonconforming Signs shall not be enlarged, extended, structurally reconstructed, or altered in any except in accordance with the requirements of Section 4.12(B) and until a permit has been obtained from the Zoning Officer as provided in Section 5.03(C). The foregoing requirement notwithstanding, a nonconforming sign may be modified in any manner that reduces the Sign's nonconformity without the need to obtain a Special Exception upon issuance of a sign permit by the Zoning Officer. A Sign permit is not needed for a new Sign face or changing of the advertising copy or message on an approved painted or printed Sign or on approved signs that are specifically designed for the use of replaceable copy.

(D) *Removal*. Nonconforming signs may remain, provided they are maintained in good repair, except for the following:

1. As provided in Section 15.01, a Nonconforming Sign or the structure supporting the Sign which is damaged or destroyed to the extent of fifty (50) percent or more of the replacement value shall not be altered, replaced or reinstalled unless it is in conformance with these regulations.

2. If the damage or destruction is less than fifty (50) percent of the replacement value, the Sign must be under repair within sixty (60) days and all repairs must be completed within six (6) months. The Sign shall not be enlarged in any manner.

3. Upon approval of a Special Exception, a non-conforming Sign may be upgraded to bring it closer into compliance with the requirements of this Ordinance without the need to bring the Sign completely into compliance as stated in Subsection (B) above.

Section 5.05 Permitted Permanent Signs

The following permanent signs may be erected and maintained only when in compliance with the provisions of this Section and any and other ordinances and regulations relating to erection, alteration, or maintenance of signs and similar devices. Zoning permits will be required for the erection, alteration, and maintenance of these signs.

(A) P1 – Signs erected by or under the direction of the Township or another governmental body (e.g., historical markers, traffic control signs and devices, etc.). See Table 5.09.1 (P1).

(B) P2 – Signs identifying semi-public uses (e.g., schools, churches, public utilities, hospitals, libraries, parks, fire stations, post offices, and other similar uses). See Table 5.09.1 (P2).

(C) P3 – Residential nameplates identifying name of home and/or its occupant, not including name listing on mailbox. See Table 5.09.1 (P3).

(D) P4 – Property control signs (e.g., "No Trespassing," "Private Property," "No Hunting or Fishing," "Posted," "Private Drive," or similar type signs). See Table 5.09.1 (P4).

(E) P5 – Residential development/neighborhood signs. Such signs shall only list the name of the neighborhood/development and shall not list any names of residents, contractors and/or realtors. See Table 5.09.1 (P5).

(F) P6 – Individual business signs identifying the name and type of business and/or any trademark of the business conducted on the premises. This does not include businesses contained within Planned Centers, as defined in Article 6 of this Ordinance. See Table 5.09.1 (P6).

(G) P7 – On-site directional, entrance, exit, rest room, and other informational signs. Signs regulating on-premises traffic (e.g., "In-Out", "Enter-Exit"), parking or other functional subdivision, such as lavatory facilities, telephone, signs denoting other sections of a premises such a "Lubrication", "Office", etc., bearing no commercial advertising. See Table 5.09.1 (P7).

(H) P8 – Billboards. A Billboard is used to advertise products, services, or businesses or to disseminate messages at a location other than the premises on which the Sign is placed. See Table 5.09.1 (P8).

(I) PC1 and PC2 –Planned Center Identification Sign. A Freestanding Sign that identifies the name and/or log of a Planned Center. The Sign also serves as a directory of business/tenants located within the Planned Center area. The directory portion of the Sign shall be limited to the names/logos of the tenants and/or businesses in the Planned Center and shall remain static except to change business names and/or logos as circumstances may require. See Table 5.09.3 (PC1) and Table 5.09.4 (PC2).

(J) PC3 and PC4 – Anchor Tenant Sign for one (1) use. See Table 5.09.3 (PC3) and Table 5.09.4 (PC4).

(K) PC5 and PC6 – Storefront Sign for one (1) use. See Table 5.09.3 (PC5) and Table 5.09.4 (PC6).

(L) PC7 and PC8 – Storefront under-canopy signs for all principal uses. See Table 5.09.3 (PC7) and Table 5.09.4 (PC8).

(M) PC9 and PC10 – Non-anchor signs for principal freestanding uses sharing common ingress and egress to Planned Center. Refer to Table 5.09.3 (PC9) and Table 5.09.4 (PC10) for details.

(N) PC11 and PC12 – Planned Center directional signs for traffic circulation at Planned Centers. Refer to Table 5.09.3 (PC11) and Table 5.09.4 (PC12).

(O) PC13 and PC14 – Planned Center light pole banners (made of a durable non-movable material that is fastened at both the top and bottom of the banner so as not to move) identifying the name of the Planned Center. Refer to Table 5.09.3 (PC13) and Table 5.09.4 (PC14).

Section 5.06 Permitted Temporary Signs

The following temporary signs may be erected and maintained only when in compliance with the provisions of this Section and any and other ordinances and regulations relating to erection, alteration, or maintenance of signs and similar devices. Zoning permits will be required for the erection, alteration, and maintenance of these signs.

(A) T1 – Temporary signs of contractors, architects, mechanics, landscapers, financing institutions, and artisans, displayed only while actual on-site work is in progress. See Table 5.09.2 (T1).

(B) T2 – Real estate sale, sold, or rent signs when placed upon the property (unit) to be rented or sold, containing less than three (3) acres. See Table 5.09.2 (T2).

(C) T3 – Real estate sale, sold, or rent signs when placed upon the property (unit) to be rented or sold, containing more than three (3) acres. See Table 5.09.2 (T3).

(D) T4 – Proposed development signs for residential and/or office complexes. See Table 5.09.2 (T4).

(E) T5 – Proposed development signs for commercial, industrial and/or other nonresidential uses. See Table 5.09.2 (T5).

(F) T6 – Special event signs and banners for businesses (e.g., grand openings, change of use or ownership, closeout sale, clearance sale, holiday sale, etc.) on the site of the permitted use. See Table 5.09.2 (T6).

(G) T7 – Roadside stand signs for the sale of agricultural products upon a principal property. See Table 5.09.2 (T7).

(H) T8 – Auctions, garage or yard sale signs upon properties conducting such sales. See Table 5.09.2 (T8).

Section 5.07 Prohibited Signs

The following signs are expressly prohibited in the Township unless specified otherwise in this Section.

(A) *Abandoned Signs*. Any Sign located on a property that is vacant and unoccupied for a period of six (6) months or more; or any Sign that pertains to any occupant, business, or event unrelated to the present occupant or use; or any Sign in disrepair for more than thirty (30) calendar days, except real estate signs advertising a property for rent, lease, or sale, provide that such property is, in fact, for rent, lease, or sale.

(B) *Animated and Moving Signs*. A Sign or other display with either kinetic or illusionary motion powered by natural, manual, mechanical, electrical or other means, including but not limited to flags having commercial messages, and all pennants, banners, streamers, propellers, and discs, as well as flashing signs, signs with illuminated elements that are used to simulate the impression of motion, and searchlights.

(C) Any Banner or Sign of any type suspended across a public Street, without the permission of the Owner of the property and road.

(D) Any Sign containing information that states or implies that a property may be used for any purpose not permitted under the provisions of this Ordinance.

(E) Any Sign, banner, pennant, balloon, valance, or advertising display constructed of cloth, fabric, cardboard, or other non-durable material, intended to be displayed for a short period of time (except a permitted special event Sign). One bouquet of balloons shall be allowed on premises that sell balloons. Balloons shall also be permitted in temporary situations or on special occasions at a residence.

(F) Any Sign that promotes illegal activity.

(G) *Flashing Signs*. Any Sign that includes lights, or messages which flash, blink or turn on or off intermittently, at any time interval. This type of sign does not include a Changeable Sign as defined in Article 6 of this Ordinance and as regulated under this Section.

(H) *Glaring Signs*. Signs with light sources or that reflect brightness in a manner that constitutes a hazard or nuisance. This includes signs with fluorescent text, graphics or background, as well as holographic signs.

(I) *Obstructive Signs*. A Sign or other advertising devise erected or maintained at any road intersection in a manner as to obstruct free and clear vision of the intersection.

(J) Open flames used to attract public attention to a place of business or to an advertising Sign.

(K) *Posters and Handbills*. Any signs affixed to any structures, trees or other natural vegetation, rocks or telephone poles.

(L) *Roof Signs*. Any Sign attached to a Building shall not be placed on the roof or be higher than the wall to which it is attached.

(M) *Simulated Traffic Signs, Street Signs, and Obstructions*. Any Sign that may be confused with, or obstruct the view of, any authorized traffic Sign, Street Sign or signal, obstruct the sight-distance triangle at any driveway or road intersection or extend into the public Right-of-Way.

(N) *Strings of Light*. Any devices including lights that outline property lines, sales areas or any portion of a structure and are intended to advertise or draw attention to a business or commercial activity, except as follows:

1. Lights used temporarily as holiday decorations.

2. Lights or other devices used on a temporary basis on parcels on which carnivals, fairs or other similar temporary activities are held.

(O) *A-frame/ Wheeled Signs*. Any portable "A" frame, wheeled or similar portable Sign is prohibited except on a temporary basis not to exceed seventy-two (72) consecutive hours not more than once per year.

(P) *Multiple Signs*. Multiple signs, logos and insignia on a canopy or canopies attached to a Building or other structure are prohibited.

(Q) *Signs Adversely Affecting Life Safety*. Signs that prevent free ingress or egress from any door, window, fire escape, or that prevent free access from one part of the roof to any other part. No Sign of any kind shall be attached to a standpipe or fire escape.

(R) *Sign Emissions*. No Sign that emits smoke, visible vapors, particles, sound or odor shall be permitted.

(S) *Mirrors*. No mirror device shall be used as part of a Sign.

(T) Signs placed on or affixed to vehicles and/or trailers that are parked on a public Right-of-Way, public property, or private property to be visible from a public Right-of-Way are prohibited where the apparent purpose is to advertise a product or direct people to a business, organization or activity.

(U) *Snipe Signs*. Signs shall only be attached to utility poles in conformance with state and utility regulations and the requirements of this Ordinance.

(V) No Sign shall display any matter in which the dominant theme of the material taken as a whole appeals to the prurient interest in sex, or is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters, and is utterly without redeeming social value including, but not limited to:

1. Any graphic illustration pertaining to specified sexual activities and/or specified anatomical areas; and,

2. Scenes wherein artificial devices are employed to depict, or drawings are employed to portray any of the prohibited signs, photographs or graphic representations described above.

(W) An obsolete Sign that no longer advertises a bona fide business conducted or product sold.

Section 5.08 Exempt Signs

The following Sign types are exempt from the Township's Zoning Permit requirements.

(A) *Residential Nameplates*. Up to two signs indicating address, number and/or name of occupants of the premises, that do not exceed two (2) square feet in area per side, and do not include any commercial advertising or other identification. See Table 5.09.3 (P3).

(B) *Decals*. Decals not exceeding one square foot affixed to windows or door glass panels, indicating membership in a business group or identifying credit cards accepted at the establishment.

(C) *Flags, Emblems and Insignia of Government Agencies, Religious, Charitable, Public or Non-Profit Organizations*. These are exempt from permit requirements, but flagpoles shall not exceed the maximum allowable Building height for the district in which located.

(D) *Handicapped Parking Space*. Signs not exceeding two (2) square feet each in areas reserving parking for handicapped individuals. Such signs must comply with the duly adopted Township Building code and PennDOT regulations. See Table 5.09.3 (P7).

(E) Holiday and seasonal decorations.

(F) *Private Drive Signs*. On-premises private drive signs are limited to one per driveway entrance, not exceeding two (2) square feet in area, with language limited to the words "private drive" and the addresses of any residences using the private driveway. See Table 5.09.1 (P4).

(G) *Official Signs*. Signs erected by government agencies or utilities, including traffic, utility, safety, railroad crossing and identification signs for public facilities and any signs erected by the Township under direction of the Board of Supervisors. See Table 5.09.1 (P1).

(H) *Personal Expression Signs*. An On-Premise Sign, including flags, that expresses an opinion, interest, position, or other non-commercial message. Personal Expression Signs are not Political Yard Signs, and vice-versa. Personal Expression Signs of any Sign type, including Flags, provided they do not exceed three (3) square feet in area per side. There is no restriction on the number of personal expression signs permitted per property.

(I) *Seasonal Farm-Products Signs*. Seasonal on-premises signs announcing the availability of seasonal farm products. Seasonal farm-product signs shall not be erected more than fifteen (15) calendar days in advance of the harvest of the produce in question and shall be removed within thirty (30) calendar days from the end of harvest. See Table 5.09.2 (T7).

(J) *Security and Warning Signs*. On-Premise signs regulating the use of the premises, such as "no trespassing", "no hunting" and "no soliciting" signs that do not exceed two (2) square feet in area in residential areas and five (5) square feet in area in commercial and industrial areas. These limitations shall not apply to the posting of conventional "no trespassing" signs in accordance with state law. See Table 5.09.1 (P4).

(K) *Street Name Signs*. Street name signs shall be designed and installed pursuant to the Street address requirements specified in the Middlesex Township Subdivision and Land Development Ordinance.

(L) *Temporary Real Estate Signs*. Display of real estate sale, sold, or rent signs shall be limited to one (1) per Street frontage with a maximum of two (2) per property. One (1) real estate temporary directional sale Sign to direct buyers/customers to an open house, special event, etc. shall be allowed off premises with permission of the owner of the property where the Sign is erected. The real estate temporary directional Sign shall not be erected more than four (4) days prior to the event and shall be removed one (1) day after the close of the event. See Table 5.09.2 (T2 and T3).

(M) *Auctions, Garage or Yard Sale Signs*. Signs advertising auctions, garage sales or yard sales are permitted, provided that no Sign shall exceed six (6) square feet in area and be erected more than 4 days prior to the event. One (1) yard sale Sign shall be allowed on premises. One (1) yard sale Sign shall be allowed off premises with permission of the property owner to direct customers to the yard sale. All signs shall be removed one (1) day after the close of the auction, garage or yard sale. See Table 5.09.2 (T8).

(N) *Memorial Signs/Tablets*. Memorial plaques or tablets, grave markers, statutory or other remembrances of persons or events that are historical and/or non-commercial in nature.

(O) *Bulletin Boards for Public, Charitable or Religious Institutions*. Bulletin boards for public, charitable, or religious institutions, when located on the premises thereof and with a Sign area of not more than twenty-five (25) square feet if single sided, or not more than fifty (50) square feet if double faced and used exclusively for non-commercial announcements.

(P) *Menu Boards for Eating Establishments*. Menu boards for eating establishments, including those with drive-in and walk-up facilities, when located on the premises thereof and with a sign area of not more than twenty (20) square feet, and used exclusively to provide information pertaining to the items available for sale and the prices thereof. An eating establishment is permitted one (1) menu board for each drive-in lane or walk-up window. If located outdoors, menu boards for walk-up windows shall be located, arranged, and screened so as not to be visible from the Street. See Table 5.09.1 (P9) for details.

Section 5.09 Specific Sign Requirements

Tables 5.09.1, 5.09.2, 5.09.3, and 5.09.4 below stipulate requirements imposed upon Permanent (P), Temporary (T), and Planned Center (PC) Signs as permitted within the Township.

Table 5.09.1, Permanent (P) Sign Requirements

Sign Type	Maximum Number	Maximum Sign Area	Maximum Height of Freestanding Signs	Maximum Height of Flat Wall Signs	Maximum Height of Wall Projecting Signs	Maximum Projection from Wall for Wall Projecting Signs	Permitted Zones	Other Requirements	Permit Required
P1 - Signs erected by or under the direction of the Township or another governmental body.	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	All	N/A	No
P2 - Signs identifying semi-public uses (e.g., schools, churches, public utilities, hospitals, libraries, parks, fire stations, post offices, and other similar uses).	2 per principal use	64 square feet combined area (No single Sign over 32 square feet)	10 feet	Height of wall to which Sign is attached.	Height of wall to which Sign is attached.	10 feet, but no closer than 10 feet from any Lot line.	All	N/A	Yes
P3 - Residential nameplates identifying name of home and/or its occupant, not including name listing on mailbox.	1 per dwelling unit (except corner Lots where 1 facing each Street is permitted)	2 square feet	5 feet	Height of wall to which Sign is attached.	Not Permitted	Not Permitted	All	N/A	No
P4 - Property control signs (e.g., "No Trespassing," "Private Property," "No Hunting or Fishing," "Posted," "Private Drive," or similar type signs).	1 per 50 lineal feet of property line	2 square feet per Sign in farm and residential areas and 5 square feet per Sign in commercial and industrial districts.	5 feet	Height of wall to which Sign is attached.	Not Permitted	Not Permitted	All	Not Permitted on trees in the right of way or utility poles.	No
P5 - Residential development/neighborhood signs. Such signs shall only list the name of the neighborhood/development and shall not list any names of residents, contractors and/or realtors.	1 per Street entrance, but no more than 2 total	1 square foot per dwelling, not to exceed 32 square feet per Sign	For pole type signs, 16 square feet in area and 12 feet in height maximum. For monument type signs, 20 square feet area and 5 feet in height maximum.	Height of wall to which Sign is attached.	Height of wall to which Sign is attached.	10 feet, but no closer than 10 feet from any Lot line.	Where use is permitted.	Must be sited with a 10-foot setback from all property lines and outside the clear sight triangle for any intersections.	No
P6 - Individual business signs identifying the name and type of business and/or any trademark of the business conducted on the premises. This does not include businesses contained within Planner Centers, as defined herein.	3 per principal use, except when a Building is located on a corner Lot and has public entrances on 2 or more public ways, or where a	For freestanding signs 1 square foot per lineal foot of Lot width, not to exceed 64 square feet per Sign. Single sided freestanding signs shall not exceed	See Section 5.04 and 5.09 for additional requirements.	Height of wall to which Sign is attached.	Height of wall to which Sign is attached.	20 feet, but no closer than 10 feet from any Lot line.	Where use is permitted.	Neither flat wall Sign, nor wall projecting Sign shall be larger than 15 percent of the wall area to which the Sign is attached.	Yes

Sign Type	Maximum Number	Maximum Sign Area	Maximum Height of Freestanding Signs	Maximum Height of Flat Wall Signs	Maximum Height of Wall Projecting Signs	Maximum Projection from Wall for Wall Projecting Signs	Permitted Zones	Other Requirements	Permit Required
	Building has both a front and rear public entrance, 1 additional Sign may be erected.	32 square feet. For flat wall signs 0.5 square feet per lineal foot of Building front not to exceed 64 square feet.							
P7 - On-site directional, entrance, exit, rest room, and other informational signs.	Unlimited	6 square feet per Sign	5 feet	10 feet	Height of wall to which Sign is attached.	2 feet	All	See Section 5.04 as applicable.	No
P8 - Billboards	See Section 5.09 of this Ordinance.								Yes
P9 –Menu Board Sign for Eating Establishments	Maximum 1 per Drive Through Lane or walk-up window	20 square feet per Sign	6 feet	6 feet	6 feet	Not permitted.	CH	See Section 5.04 as applicable.	No

Table 5.09.2, Temporary (T) Sign Requirements

Sign Type	Maximum Number	Maximum Permitted Sign Area	Maximum Height of Freestanding Signs	Maximum Height of Flat Wall Signs	Maximum Height of Wall Projecting Signs	Maximum Projection from Wall for Wall Projecting Signs	Permitted Zones	Other Requirements	Permit Required
T1 - Temporary signs of contractors, architects, mechanics, landscapers, financing institutions, and artisans, displayed only while actual on-site work is in progress.	1 per firm whose work is in progress	32 square feet	8 feet	Not Permitted	Not Permitted	Not Permitted	All	Should a Sign be left on-site beyond allowable time period, the Township may impound it and recover a fee from owner equal to cost of impoundment and storage	Yes, if Sign area exceeds twelve (12) square feet
T2 - Real estate sale, sold, or rent signs when placed upon the property (unit) to be rented or sold, containing less than 3 acres.	1 per Street frontage, maximum of 2 signs	24 square feet per Sign	5 feet	Height of wall to which Sign is attached.	Not Permitted	Not Permitted	All	All such signs shall be removed within 5 days of final sales transaction or upon rental occupancy or are subject to Township impoundment and a recovery fee.	No
T3 - Real estate sale, sold, or rent signs when placed upon the property (unit) to be rented or sold, containing more than 3 acres.	1 per Street frontage, maximum of 2 signs	24 square feet per Sign	5 feet	Height of wall to which Sign is attached.	Not Permitted	Not Permitted	All	Same as above	No
T4 - Proposed development signs for residential and/or office complexes.	1 per Street frontage, maximum of 2 signs	1 square foot per unit of occupancy, not to exceed 32 square feet	10 feet	Height of wall to which Sign is attached.	Not Permitted	Not Permitted	All, but only after final plan is approved	Such signs shall be removed upon completion of construction of final unit	Yes
T5 - Proposed development signs for commercial, industrial and/or other nonresidential uses.	1 per Street frontage - maximum of 2 signs	1 square foot per 1,000 square feet of gross leasable floor area, not to exceed 32 square feet	10 feet	Height of wall to which Sign is attached.	Not Permitted	Not Permitted	Where use is permitted but only after final plan approval	All such signs shall be removed upon completion of Building construction	Yes
T6 - Special event signs and banners for businesses (e.g., grand openings, change of use	2 per business per year. (Special event	32 square feet if freestanding; 48	10 feet	Height of wall to which Sign is attached	Not Permitted	Not Permitted	Where use is permitted	Such signs may only be displayed for a	Yes

Sign Type	Maximum Number	Maximum Permitted Sign Area	Maximum Height of Freestanding Signs	Maximum Height of Flat Wall Signs	Maximum Height of Wall Projecting Signs	Maximum Projection from Wall for Wall Projecting Signs	Permitted Zones	Other Requirements	Permit Required
or ownership, closeout sale, clearance sale, holiday sale, etc.) on the site of the permitted use.	sites for charitable or non-profit organizations shall be exempt from the limit of 2 per year)	square feet if attached to wall						combined total of 30 days.	
T7 - Roadside stand signs for the sale of agricultural products produced upon a principal property.	2 per property	16 square feet	6 feet	Height of wall to which Sign is attached	Height of wall to which Sign is attached.	5 feet	Where use is permitte	Roadside stand signs shall only be displayed during seasons when products are for sale.	No
T8 - Auctions/garage/yard sale signs upon properties conducting such sales.	Maximum of 2 signs	6 square feet per Sign	5 feet	Height of wall to which Sign is attached	Not Permitted	Not Permitted	All	See Section 5.05 for additional requirements.	No

Table 5.09.3, Planned Center (PC) Signage for Sites Containing Less Than 100,000 Square Feet of Gross Leasable Floor Area

Sign Type	Maximum Number	Maximum Sign Area	Maximum Height	Maximum Letter Height	Permitted Zones	Other Requirements	Permit Required
PC1- Planned Center Identification Sign.	1 per Planner Center	75 square feet	20 feet	18 inches	Where use is permitted.	This sign shall devote no less than 25 percent of the total sign area (per side) to the advertisement of the Planner Center's name.	Yes
PC3 - Anchor tenant sign for one use.	1 per side facing a Street, with a maximum of 2 signs	75 square feet per sign	Height of wall to which sign is attached.	42 inches.	Same as above	These signs shall only be provided as flat wall or wall projecting signs.	Yes
PC5 - Storefront sign for one use.	1 per principal use	1½ square foot per lineal foot of storefront up to a maximum of 50 square feet	Height of wall to which sign is attached.	30 inches	Same as above	This sign shall only be provided as a flat wall or a wall projecting sign. This sign shall be located at least four (4) feet from the edge of each storefront. Each tenant also shall be permitted one (1) non-illuminated sign, not to exceed six (6) square feet, which identifies the tenant's name and is located above the tenant's rear entrance in order to direct deliveries.	Yes
PC7 - Storefront under-canopy signs for all principal uses.	1 per principal use	4 square feet	To base of canopy, or where no canopy is provided, 10 feet.	8 inches	Same as above	No under – canopy Sign shall have a vertical dimension of more than 18 inches from its lowest to highest point. The base of an under – canopy Sign shall be no less than 8 feet, 6 inches above the finished grade below such Sign.	Yes
PC9 - Non-anchor signs for principal freestanding uses sharing common ingress and egress to Planner Center.	2 per principal use, but only 1 per wall	50 square feet per Sign, not exceeding 20 percent of wall area to which Sign is attached.	Height of wall to which Sign is attached.	28 inches	Same as above.	These signs shall only be provided as flat wall and/or wall projecting signs.	Yes
PC-11 – Planned Center Directional Signs.	1 per secondary Street entrance	6 square feet	6 feet		Same as above.	These signs shall be used to direct motorists to businesses and amenities within the Planner Center and shall contain only the Planner Center name and directional information.	Yes
PC-13 – Planned Center Light Pole Banners.	1 per light pole in the Planed Commercial Center	12 square feet per light pole	Height of light pole to which it is attached.		Same as above.	These banners shall contain only the name of the Planner Center and shall not be used to advertise any of the businesses or amenities located within the Planner Center. The banners must be made of rigid materials and fastened at both the top and bottom of the banner so not to move.	Yes

Table 5.09.4, Planned Center (PC) Signage for Sites Containing More Than 100,000 Square Feet of Gross Leasable Floor Area

Sign Type	Maximum Number	Maximum Sign Area	Maximum Height	Maximum Letter Height	Permitted Zones	Other Requirements	Permit Required
PC2 –Planned Center Identification Sign.	1 per Street frontage with entrance or exit	100 square feet	20 feet	18 inches	Where use is permitted.	This sign shall devote no less than 25 percent of the total sign area (per side) to the advertisement of the Planner Center's name.	Yes
PC4 - Anchor tenant sign for one use containing more than 150 lineal feet of storefront.	1 per side facing a Street, with a maximum of 2 signs	If sign is less than 300 feet from facing Street, then sign can be 1 square foot per each lineal foot of storefront up to a maximum of 100 square feet. If sign is more than 300 feet from facing Street, then sign can be 1.5 square feet per each lineal foot of storefront up to a maximum of 150 square feet.	Height of wall to which sign is attached.	42 inches.	Same as above	These signs shall only be provided as flat wall or wall projecting signs.	Yes
PC6 - Storefront sign for one use containing up to 150 lineal feet of storefront.	1 per principal use	1.5 square feet per lineal foot of storefront up to a maximum of 75 square feet	Height of wall to which sign is attached.	30 inches	Same as above	This sign shall only be provided as a flat wall or a wall projecting sign. This sign shall be located at least four (4) feet from the edge of each storefront. Each tenant also shall be permitted one (1) non-illuminated sign, not to exceed four (4) square feet, above the tenant's rear entrance in order to direct deliveries.	Yes
PC8 - Storefront under-canopy signs for all principal uses.	1 per principal use	4 square feet	To base of canopy, or where no canopy is provided, 10 feet.	8 inches	Same as above	No under – canopy sign shall have a vertical dimension of more than 18 inches from its lowest to highest point. The base of an under – canopy sign shall be no less than 8 feet, 6 inches above the finished grade below such sign.	Yes
PC10 - Non-anchor signs for principal freestanding uses sharing common ingress and egress to a Planner Center.	2 per principal use, but only 1 per wall	75 square feet per sign, not exceeding 20 percent of wall area to which sign is attached.	Height of wall to which sign is attached.	28 inches	Same as above.	These signs shall only be provided as flat wall and/or wall projecting signs.	Yes
PC12 – Planned Center Directional Signs.	1 per secondary Street entrance	8 square feet	6 feet		Same as above.	These signs shall be used to direct motorists to business and amenities within the Planner Center and shall contain only the Planner Center name and directional information.	Yes

PC-14 – Planned Center Light Pole Banners.	1 per light pole in the Planner Center	12 square feet per light pole	Height of the light pole to which it is attached.		Same as above.	These banners shall contain only the name of the Planner Center and shall not be used to advertise any of the businesses or amenities located within the Planner Center. The banners must be made of rigid materials and fastened at both the top and bottom of the banner so as not to move.	Yes

Section 5.10 Billboards

(A) Billboards shall be allowed by Special Exception upon approval of the Zoning Hearing Board only in the C-1, C-2, and I Districts as designated elsewhere in this Ordinance.

(B) Development of Billboards shall not be subject to subdivision and land development plan approval, but shall comply with all applicable requirements of ordinances, codes, and regulations of the Township.

(C) Lot requirements for Billboards shall be as follows:

1. Billboards shall only be erected upon a Lot located entirely within the C-1 District, C-2 District, or I District.

2. A Lot specifically for Billboard use may not be used for any other use or as a residential or non-residential Building Lot but may be consolidated with and conveyed as a Lot addition to an adjacent Lot.

3. Billboards shall only be erected upon a Lot that is accessed by or adjacent to either a public road or a leased area or an easement at least fifty (50) feet wide with direct and continuous access to a public road, subject to recommendation by the Planning Commission and approval by the Board of Township Supervisors.

4. The minimum area for a Lot in Billboard use is thirty thousand (30,000) square feet.

5. The minimum Lot width, minimum Lot depth and minimum dimension of a property line on any one side of a Lot in Billboard use is fifty (50) feet.

6. The maximum Lot coverage for a Lot in Billboard use is fifteen (15) percent.

7. The maximum impervious area for a Lot in Billboard use is forty (40) percent.

(D) Billboards are subject to the following additional restrictions:

1. Every Billboard shall be identified on the structure with the name of the owner.

2. All Billboards approved for erection or construction shall comply with duly adopted Building and construction regulations of this Township, and any other applicable federal, state or local laws, regulations or ordinances.

3. All Billboards shall be attached to the ground by a single supporting monopole, or vertical metal or concrete post, pillar, pole or column.

4. No Billboard shall obstruct the view of motorists on adjoining roads, or the view of adjoining commercial or industrial uses, which depend upon visibility for identification.

5. Billboards may be illuminated, but no direct ray of light shall extend beyond the face of the Sign. Lighting fixtures used to illuminate a Billboard shall be mounted on the top of the Billboard structure. Bottom mounted lighting is not permitted. All such Billboard lighting fixtures shall be constructed to prevent direct light from being directed toward residential buildings on adjacent or nearby land and to prevent glare perceptible to persons operating motor vehicles on public ways.

6. All properties upon which a Billboard is erected shall be regularly maintained so as not to create a nuisance by means of weeds, litter, vector habitation or violations of any other applicable federal, state or local laws, regulations or ordinances.

7. No portion of any Billboard shall exceed a height of thirty-five (35) feet above ground elevation as measured at any point within fifteen (15) feet in a circle around the base of the supporting monopole for the Billboard.

8. All Billboards shall be setback a minimum distance of forty (40) feet from any property line or utility easement line.

9. All Billboards shall be located not less than forty (40) lineal feet from the legal Right-of-Way of any existing Street, road or highway or from the dedicated Right-of-Way line of any Street, road or highway as shown on a subdivision or land development plan approved by the Township.

10. No Billboard shall be located at a lesser distance than 1,000 lineal feet from the following features:

    a. The District boundary line of any adjoining residential Zoning District; or

    b. Any Building used for residential purposes, including individual dwelling units and other buildings used for residential purposes such as but not limited to apartment houses, boarding houses, convalescent homes, group homes, hotels, lodging houses and motels.

11. The minimum distance required between all Billboards shall be 2,640 feet as measured along the centerline of the abutting roadway. Signs located on the opposite sides of the road or in an adjacent Municipality are subject to this distance requirement. In addition, no Billboard or off-premises Sign shall be erected within two hundred and fifty (250) feet of any existing freestanding on-premises Sign.

12. The maximum area for any one Billboard face shall be three hundred (300) square feet (inclusive of any border or trim, but excluding the base or apron, supports and other structural members), except in said Zoning Districts where the Billboard is located adjacent to and intended to be seen by vehicular traffic on the limited access highways known as "Interstate 81" and “The Pennsylvania Turnpike”, in which latter locations said Billboard face shall not exceed fourteen (14) feet in vertical measurement or forty-eight (48) feet horizontally and in no event to exceed six hundred seventy-two (672) square feet per facing (inclusive of any border, trim or embellishment, which embellishment shall not exceed twenty-eight (28) square feet of area, but excluding the base or apron, supports and other structural members). The terms “face” and "facing" as used in this Section shall mean the surface area or surface areas of the structure containing the message of the Billboard or Billboards.

    a. The Billboard face area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire Billboard face above ground level.

    b. A Billboard structure shall not contain more than two (2) facings with only one advertising message per face which facings may be placed only back-to-back or V-shaped at an interior angle of less than ninety (90) degrees.

13. Billboard Changeable Signs shall not be allowed in the following locations:

a. Abutting a public Street where traffic merging conditions exist Billboard Changeable Signs located on the opposite sides of the road are also subject to this requirement.

b. Abutting a curve on a public Street which is posted with a traffic warning sign. Billboard Changeable Signs located on the opposite sides of the road are also subject to this requirement.

c. Abutting an Interstate; within 1,100 feet of an entrance to or exit from the Interstate as measured along the centerline of the Abutting Interstate. Billboard Changeable Signs located on the opposite sides of the road are also subject to this requirement.

d. Abutting a Principal Arterial providing access to an Interstate highway; within five hundred (500) feet of an entrance to or exit from the Interstate as measured along the centerline of the Abutting Principal Arterial. Billboard Changeable Signs located on the opposite sides of the road are also subject to this requirement.

14. It is recommended that Billboard Changeable Signs specified within this Section should not include advertising messages with telephone numbers, internet addresses, or similar complex information that could be distracting to motorists.

Section 5.11 Retail Fuel Sales Signs

(A) Any establishment engaged in the retail sale of fuel for use by motor vehicles shall comply with all applicable regulations within this Section and the following requirements:

1. Establishments engaged in the retail sale of fuel for use by motor vehicles may also utilize a Changeable Sign to list the current prices of fuel disbursed on the premises on the same foundations of the main business identification Sign. If such a Changeable Sign is utilized, only the price may be changed, with price changes to be made no more than once an hour to reflect current fuel prices.

2. If the Changeable Sign is separate from the main business identification Sign the Changeable Sign shall not project higher than ten (10) feet from the actual grade of the premises directly below the face of the Sign (exclusive of mounds or other additives to the grade level), shall maintain side and rear Yard Setbacks and shall not extend within fifteen (15) feet of any point of vehicular access to a public roadway. In addition, only the price may be changed, with price changes to be made no more than once an hour to reflect current fuel prices.

3. The total area for the combination of the main business identification Sign and the Changeable Sign shall not exceed thirty-two (32) square feet for each exposed face.

Section 5.12 Changeable Signs

(A) Changeable Signs as defined in Article 6 of this Ordinance, including, but not limited to Electronic Messaging Center (EMC) Signs and Light Emitting Diode (LED) Signs as defined in Article 6 of this Ordinance shall be permitted for all signs permitted in Section 5.04(B), (F), (H), (I), (J), (K), (L), (M), and (N) of this Ordinance subject to the following restrictions:

1. Changeable Signs shall only be permitted in the C-1, C-2 and I Zoning Districts, except that permanent type P2 signs permitted in accordance with Section 5.04(B) and Bulletin Boards permitted in accordance with Section 5.09 are allowed in Zoning Districts where semi-public

uses (e.g., schools, Place of Worship, public utilities, hospitals, libraries, parks, fire stations, post offices, and other similar uses are permitted as specified under Table 3.02.1 of this Ordinance.

2. Permitted only when installed in conjunction with, and on the structure of, a legally permitted permanent Flat Wall Sign or permanent Freestanding Sign.

3. For Billboard Changeable Signs and all other Changeable Signs, each message shall remain fixed for a minimum of twenty (20) seconds.

4. When a message is changed, the time interval used to change from one complete message to the next complete message shall be a maximum of one (1) second.

5. Messages shall not be illuminated by blinking, traveling, scrolling, training, intermittent, animated, flashing lights, or any form of movement.

6. The sign face shall have only one advertising message at any one time.

7. Messages that display static or movable video or movie-like images or real-life or animated life-like images are prohibited.

8. Changeable Signs shall not operate at brightness levels of more than 0.30-foot candles above ambient light levels as measured at five (5) feet above grade and the following distances from the Sign:

Sign (sq. feet)	**Distance (feet)**
Less than 300	150
300-400	200
Greater than 400	250

In addition to the requirements listed above, the brightness level of Changeable Signs shall be automatically adjustable to ambient light levels, and if the automatic adjustment feature malfunctions, the brightness level shall default to the nighttime ambient light level settings until the automatic adjustment equipment can be repaired.

9. Only one (1) Changeable Sign shall be permitted for each approved principal use on a property.

10. The owner of or applicant for a Changeable Sign and her, his, its and/or their successors, shall be required to coordinate and permit message access for local, regional, state, and national emergency services during emergency situations. Emergency messages are not required to conform to message standards listed herein.

ARTICLE 6 DEFINITIONS

Section 6.01 Rules of Interpretation

(A) The following rules apply to the interpretation of this Ordinance:

1. Words in the singular include the plural and those in the plural include the singular;

2. Words used in the present tense include the future tense;

3. The words "Person", "Applicant", "developer", and "Owner" include a corporation, unincorporated association and a partnership, or other legal entity, as well as an individual engaged in the subject activity;

4. The word "Building" includes Structure and shall be construed as if followed by the phrase "or part thereof";

5. The word "Watercourse" includes channel, creek, ditch, dry run, spring, Stream and river;

6. The words "should" and "may" are permissive; the words "shall" and "will" are mandatory and directive;

7. The word "Lot" includes the word plot or parcel; and

8. The word "used" or "occupied" as applied to any land or Building shall be construed to include the words "intended, arranged or designed to be used or occupied."

Section 6.02 Defined Words and Terms

(A) Words and terms used in this Ordinance shall have the meanings given in this Section. Unless expressly stated otherwise, any pertinent word or term not part of this listing but vital to the interpretation of this Ordinance, shall be construed to have their legal definition, or in absence of a legal definition, their meaning as commonly accepted by practitioners including Registered Design Professionals and/or Certified Planners.

ABANDONED SIGN – An abandoned Sign shall mean:

1. A Sign which has remained without bonafide advertising for a period of six (6) months, and for which the Sign owner has not made application for a current permit as provided hereinbelow, or which is without a current lease or license from the landowner, or as to which the Sign owner has ceased to attempt to lease the advertising space; or

2. A Sign which requires maintenance or repair in excess of twenty-five (25) percent of the replacement cost of the Sign as determined by the Zoning Officer after consultation with the Sign owner if said owner can be identified from the permit previously issued for such Sign.

ABANDONMENT – The relinquishment of property, or a cessation of the use of the property, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.

ABANDONMENT OF WELL – An abandoned or unused well may be defined as one or more of the following:

1. A well, other than a monitoring well, which has been out of service continuously for one year or more, and does not meet the definition of a standby well.

2. A monitoring well from which no measurement or sample has been taken for a period of three (3) years.

3. A well that is in such a state of disrepair that it cannot be made operational for its intended purpose.

4. A test hole or exploratory boring twenty-four (24) hours after construction and testing work has been completed.

5. A cathodic protection well that is no longer functional for its original purpose.

6. Any boring that cannot be satisfactorily completed as a well.

7. An inactive geothermal groundwater heat exchange system.

ABUT[TING] – To physically touch or border upon; or to share a common property line.

ACCESS DRIVE(WAY)– A paved surface, other than a Street, which provides vehicular access from a Street or private road to a Lot. An Access Drive may serve multiple properties and may require a shared access and maintenance agreement.

ACCESSORY USE OR STRUCTURE – A use or structure on the same Lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ADDITION – An extension or increase in the footprint, floor area, Height or other dimension of a Building or Structure.

ADJACENT TRACT, PARCEL, OR LOT – Property that is Contiguous with, or directly across a public Street or other Right-of-Way from, the boundaries of any side of the subject property.

ADJUSTED TRACT AREA – The Gross Tract Area minus the Constrained Areas of the site that are not available for development in the underlying zoning district.

AGRICULTURAL COMMODITY – Includes any of the following transported or intended to be transported in commerce: (1) agricultural, aquacultural, horticultural, floricultural, viticultural or dairy products; (2) Livestock and the products of livestock; (3) ranch-raised fur-bearing animals and the products of ranch-raised fur- bearing animals; (4) the products of poultry or bee raising; (5) forestry and forestry products; and (6) any products raised or produced on farms intended for human consumption and the processed or manufactured products of such products intended for human consumption.

AIRPORT ELEVATION – The highest point of an airport's useable landing area measured in feet above sea level.

AIRPORT HAZARD – Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined in 14 CFR Part 77 and 74 Pa. Cons. Stat. §5102.

AIRPORT HAZARD AREA – Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Ordinance and the Act 164 of 1984 (Pennsylvania Laws Relating to Aviation).

AISLEWAY – The traveled way by which cars enter and depart parking spaces.

ALLEY – A public Right-of-Way, other than a Street, affording secondary means of access to abutting property.

ALTERATION OF NATURAL SITE FEATURES – Any earth moving, clearcutting, filling, mining, dredging, grading, paving, excavating or drilling activities which require a permit or approval from Federal, State or local officials.

ALTERATIONS – As applied to a Building or structure, any change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

AMENDMENT – A change in Use in a district that includes revisions to this Ordinance text or the official Zoning Map. The authority for any amendment lies solely with the Township Board of Supervisors.

ANTENNA – an apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

APPEAL – For the purpose of this Ordinance, an Appeal shall refer to a timely submitted and complete application on an application form prescribed by the Zoning Hearing Board for appeal of an order, requirement, Decision or Determination made by the Zoning Officer or rule or regulation adopted pursuant thereto.

APPLICANT – A landowner, developer or other Person who has filed an application for development, Building permit, zoning permit, approval to engage in any regulated earth disturbance activity, etc., at a property or project site within Middlesex Township.

APPROACH SURFACE (ZONE) – An imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of the runway based on the planned approach. The inner edge of the approach surface is the same width as the primary surface and expands uniformly depending on the planned approach. The approach surface zone, as shown on Figure 2.17.1, Federal Aviation Regulations (FAR), Part 77 Surface Areas, is derived from the approach surface.

ATTIC – That part of a Building which is immediately below and wholly or partly within the roof framing. Within a dwelling unit, an attic shall not be counted as floor area unless it is constructed as or modified into a habitable room by an average ceiling Height of five (5) feet or more, and a permanent stationary interior access stairway to a lower Building story.

AUTOMOBILE – A motor vehicle or a combination of vehicles having a gross vehicle weight rating or gross combination weight rating less than or equal to 26,000 pounds. For purposes of this definition, the gross vehicle weight rating shall be the value specified on the Federal weight certification label by the manufacturer as the loaded weight of a single vehicle and the gross combination weight rating shall be the value specified by the manufacturer as the load weight of a combination.

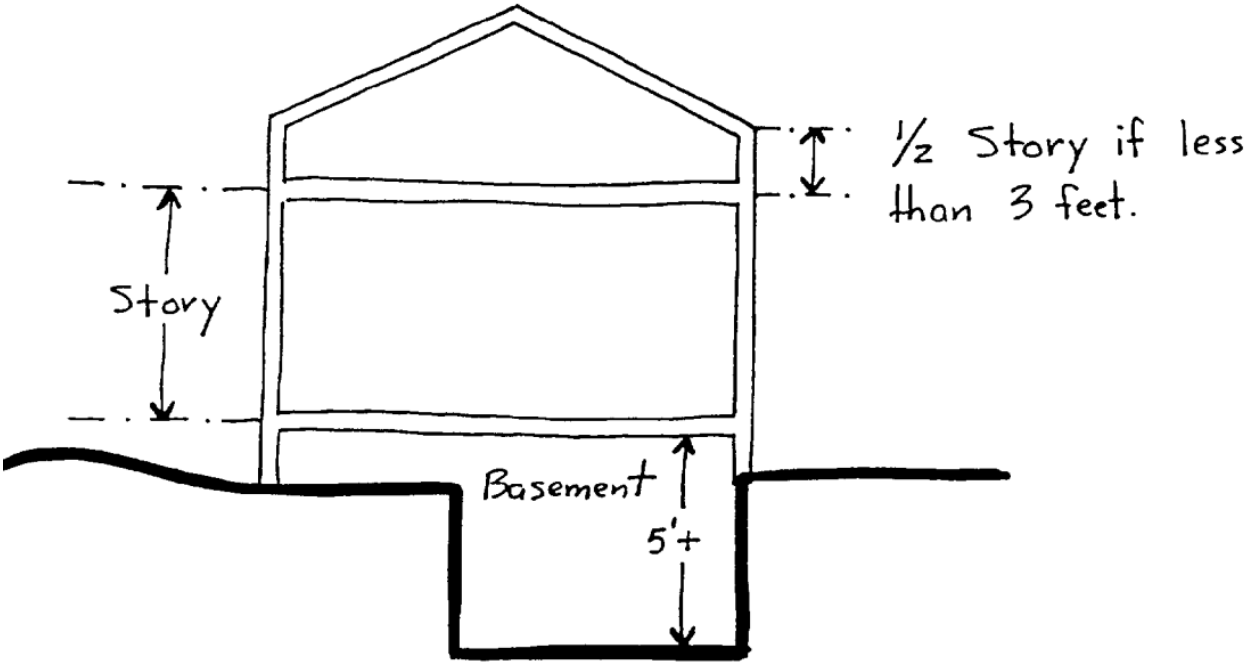
BASE FLOOD– A flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent (1%) annual chance flood).

BASE FLOOD DISCHARGE – The volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

BASE FLOOD ELEVATION (BFE) – The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

BASEMENT – That portion of a Building that is partially or wholly below ground level. This portion serves as a substructure or foundation for a Building. A basement shall be counted as a story for the purpose of height measurement, if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet (See Figure 6.02.1).

Figure 6.02.1, Basement and Story



BERM – A landscaped mound of earth or the act of pushing earth into a mound to shield, screen and buffer two separate, incompatible land uses. Berms may also be used to provide visual interest, decrease noise and control the direction of water flow.

BEST MANAGEMENT PRACTICES (BMPs) – State-of-the-art recommended practices for controlling stormwater runoff or handling hazardous substances.

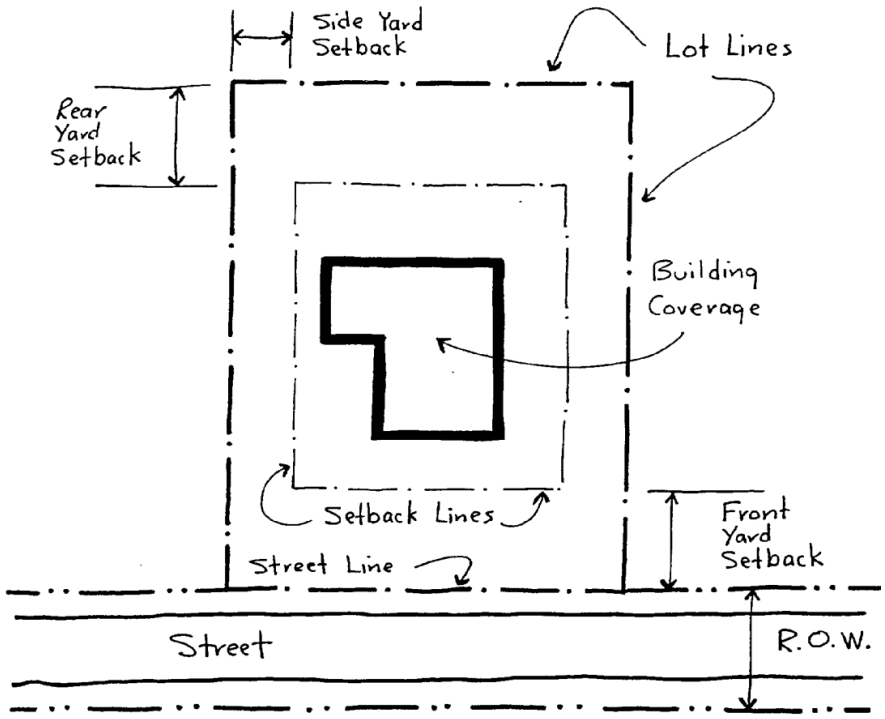
BOARD OF SUPERVISORS – The Board of Township Supervisors of the Township of Middlesex.

BUILDING – Any structure, whether temporary or permanent, having walls and a roof or other covering and designed or used for the shelter or enclosure of any person, animal, or property of any kind, including tents, awnings, or vehicles situated on private property and used for purposes stated above.

BUILDING AREA –The horizontal area measured around the outside of the foundation walls plus the floors of roofed porches and roofed terraces, and including the area of accessory buildings if any. In the case of split-level dwellings, the "first floor area" shall be deemed to include floor areas on two non-overlapping levels, separated by a half story, or less, of height.

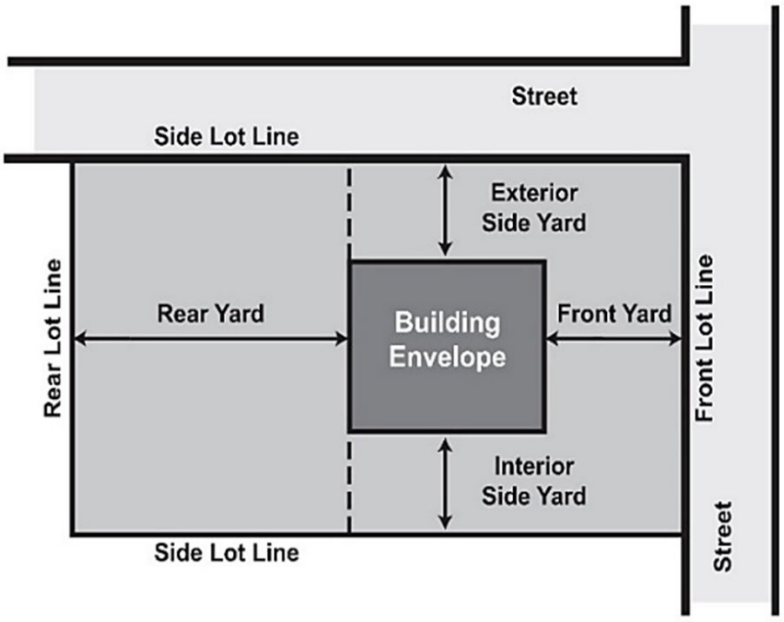
BUILDING COVERAGE – Total area of a Lot covered by Buildings. Measured from the outside of all exterior walls at ground level, it includes all exterior stairways, covered parking and walkways. (See Figure 6.02.2).

Figure 6.02.2, Building Coverage



BUILDING ENVELOPE – The area within a Lot where Buildings and other improvements shall be located as determined by the applicable Yard setbacks (See Figure 6.02.3).

Figure 6.02.3, Building Envelope

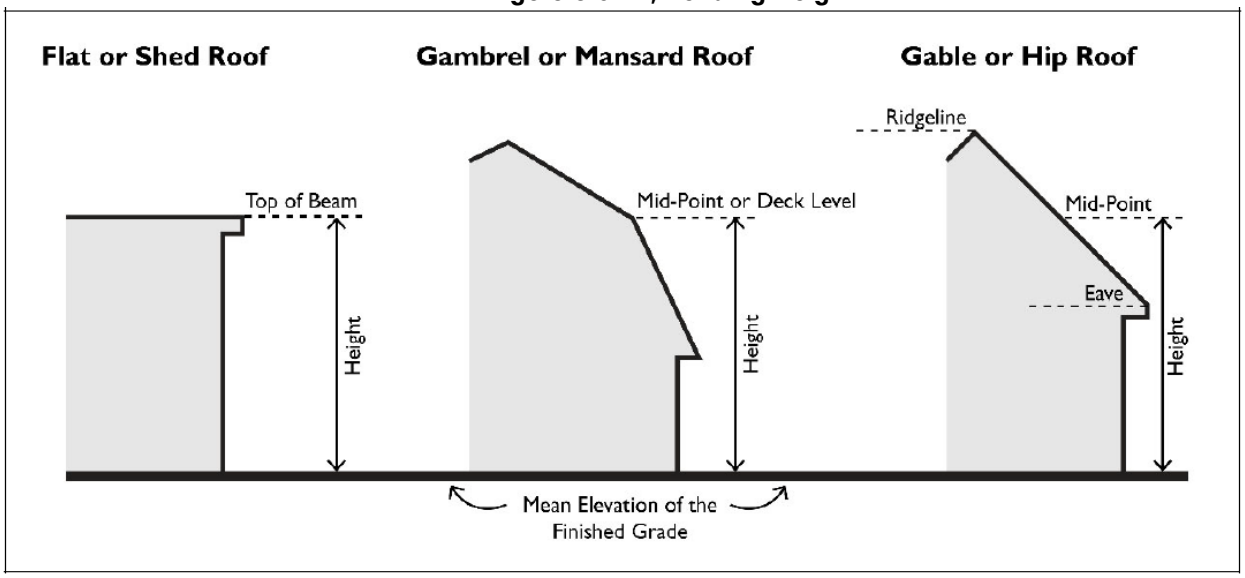


BUILDING FACE – The general outer surface of any exterior wall of a Building or other Structure.

BUILDING FRONTAGE – The maximum linear width of a Building measured in a single straight line parallel, or essentially parallel, with the abutting public Street or parking Lot.

BUILDING HEIGHT – The vertical distance calculated by subtracting the elevation of the highest point on the roof on flat or shed roofs and/or the elevation of the deck line on gambrel and mansard roofs and/or the average height between eaves and ridges on gable or hip roofs from the average elevation of finished grades at the outside walls facing and/or nearest to the Front Yard Setback lines (See Figure 6.02.4).

Figure 6.02.4, Building Height



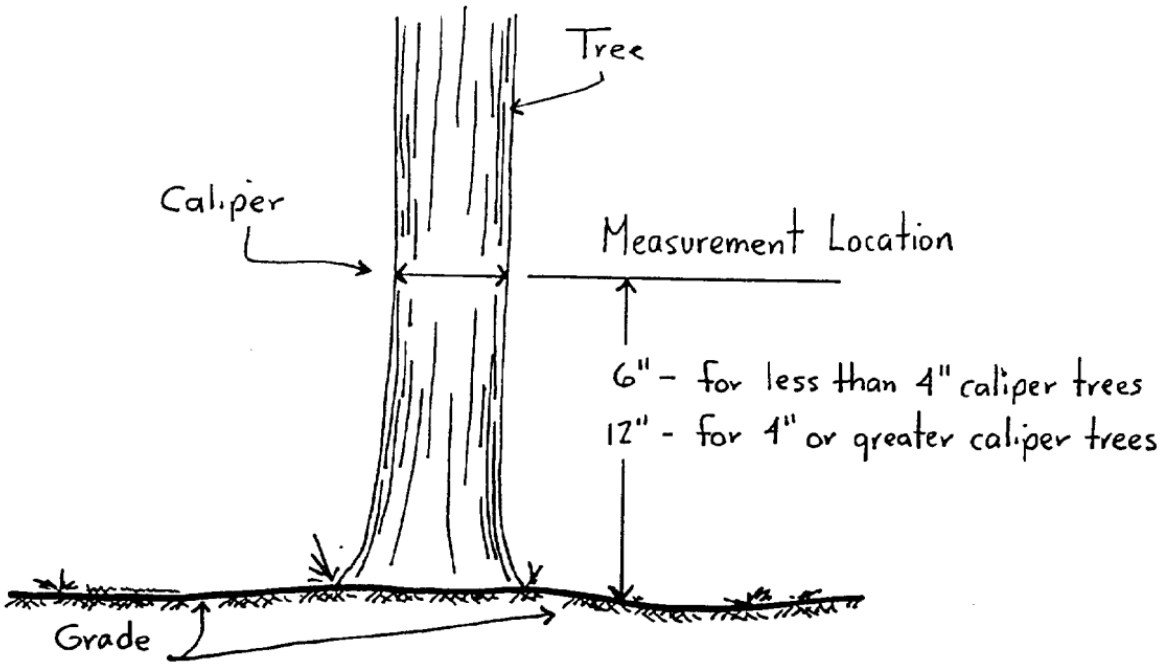
BUILDING SETBACK LINE (SETBACK) – The line within a property defining the required minimum distance between any structure and any adjacent street rights-of-way, and the lines defining side and rear yards, where required.

BUFFER – An area within a property or site generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences and/or berms, designed to limit continuously the view, sound and/ or light from the site to adjacent sites or properties.

BUSINESS DAY – Means a day that is not a recognized municipal or federal holiday and is not a Saturday or Sunday.

CALIPER, TREE – The diameter of a tree trunk, measured in inches, six inches above ground level for trees up to four inches in diameter and twelve (12) inches above ground level for trees over four (4) inches in diameter. The term applies to nursery stock (See Figure 6.02.5).

Figure 6.02.5, Tree Caliper



CARBONATE – A sedimentary bedrock made up of limestone and/or dolomite that is highly permeable and prone to fractures, solution channels and the formation of sinkholes.

CERTIFICATE OF USE AND OCCUPANCY – A certificate issued and enforced by the Township's appointed code enforcement officer after completion of the construction of a new Building or after a change or conversion of the Structure or use of a Building, and prior to the use of said Structure or Building, which certifies that all requirements and regulations as provided herein, as well as all other applicable requirements, have been satisfied.

CERTIFIED PLANNER – A person that has received certification through the American Institute of Certified Planners (AICP).

CHICKENS – Female poultry or foul of the species gallus domesticus.

CLEAR SIGHT DISTANCE – An area of unobstructed vision measured at the centerline of the Cartway to an object one and one-half (1½) feet above the pavement, from a Height of three and one-half (3½) feet and ten (10) feet from the edge of paving at the intersection. Sight distances shall be designed pursuant to the Middlesex Township Subdivision and Land Development Ordinance.

CLEAR SIGHT TRIANGLE – An area of unobstructed vision at Street intersections defined by lines of sight between points at a given distance from the intersection of the Street center lines.

COLLOCATED WIRELESS COMMUNICATIONS FACILITY (COLLOCATED WCF) – Wireless communications facilities that are attached to existing structures, such as, but not limited to Buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles, and other similar structures that do not require the installation of a new or replacement wireless support Structure.

COLLOCATION – The mounting of one or more WCFs, including antennas, on a pre-existing Structure, or modifying a Structure for the purpose of mounting, or installing a WCF on that Structure.

COMMERCIAL VEHICLE – Any type of motor vehicle used for transporting goods or passengers for compensation. Commercial vehicle operations are categorized as either intrastate or interstate operations. Interstate operations require the applicant to operate in Pennsylvania and at least one other jurisdiction.

COMMON FACILITIES – All the real property and improvements, owned in common by residents within the development; which is served by the facilities. Common facilities include, without limitation, landscaped areas, buffers, Common Open Space land not included within title lines of any privately owned Lot, and Street Rights-of-Way not dedicated to the municipality.

COMMUNITY ASSOCIATION – A non-profit organization comprised of homeowners or property owners, the function of which is to maintain and administer property owned in common by members of the association or by the association, to protect and enhance the value of the property owned individually by each of the members. Homeowners Associations and Condominium Associations are types of Community Associations.

COMPREHENSIVE PLAN – The Comprehensive Plan adopted by the Board of Township Supervisors pursuant to Article III of the Pennsylvania Municipalities Planning Code which indicates the general locations recommended for the various functional classes of public works, places, and structures, and for the general physical development of the Township, and includes any unit or part of such plan separately adopted and any amendment to such plan or part thereof.

CONDITIONAL USE – A Use conditionally permitted in a particular Zoning District under this Ordinance that may be undertaken only following the approval by the Board of Supervisors and the subsequent issuance of a Zoning Permit by the Zoning Officer pursuant to standards and criteria established in this Ordinance.

CONDOMINIUM – Real estate, portions of which is designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those separate portions, in accordance with the Pennsylvania Uniform Condominium Act 1980-82, as amended.

CONICAL SURFACE (ZONE) – An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally to one (1) foot vertically for a horizontal distance of 4,000 feet. The conical surface zone, as shown on Figure 2.17.1, Federal Aviation Regulations (FAR), Part 77 Surface Areas, under Section 2.17 of this Ordinance, is based on the conical surface.

CONSERVATION DESIGN – A method of subdivision design as described in Section 4.06 of this Ordinance.

CONSERVATION SUBDIVISION – A form of residential development where Lot sizes are reduced below those required in the underlying zoning district in which the development is located in return for the provision of permanent Open Space and the conservation of environmentally sensitive areas.

CONSISTENCY – An agreement or correspondence between matters being compared which denotes a reasonable, rational, similar connection or relationship.

CONSTRAINED LAND – Selected resources listed in Table 4.06.1, Constrained Area Types and Multiplier Factors, Section 4.06 of this Ordinance Section Zoning Ordinance, multiplied by a protection factor and totaled.

CONSTRUCTION – The erection or installation of a new Building, Structure, or object, as well as modifications or improvements to existing Buildings, Structures, or objects.

CONTIGUOUS TRACT/PARCEL, OR LOT – All portions of one operational unit as described in the deed or deeds, whether or not the portions are divided by streams, public roads or bridges and whether or not the portions are described as multiple tax parcels, tracts, subparts or other property identifiers. The term includes supportive lands, such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams.

COOP – A Structure, either portable or permanent, to shelter poultry.

COUNTY – The County of Cumberland, Commonwealth of Pennsylvania.

DECISION – A final adjudication of any board or other body granted jurisdiction under this Ordinance do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from Determinations. All Decisions shall be appealable to the Court of Common Pleas of Cumberland County and applicable judicial district wherein the Township lies.

DECLARATION OF LAND RESTRICTION (NON-CONVERSION AGREEMENT) – A form signed by the property owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions.

DEMOLITION OR DEMOLISH – The removal or destruction of all or part of a Building or Structure. Demolition includes, but is not limited to:

1. Permanent removal of any portion of any structural element such as a Roof or exterior wall, or any significant Building elements such as cornices, doors, windows, doorways, porches, or chimneys.

2. Permanently covering or obscuring any portion of any Roof or exterior wall, or any significant exterior Building elements.

3. Removing all or part of a Building or Structure that has been damaged by a fire, flood, or other disaster.

DENSITY – The average number of persons, families, or dwellings per unit of area (acre, square mile, etc.).

DETERMINATION – Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

1. the Governing Body; or

2. the Zoning Hearing Board.

Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

DEVELOPMENT – Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; Streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

DIAMETER AT BREAST HEIGH (DBH) – The measurement of the tree in inches, specifically four (4) feet six (6) inches above natural grade on the uphill side of the tree. In the case of trees with multiple trunks, the diameter of all stems (trunks) at breast height shall be combined to calculate the diameter at breast height of the tree.

DISABILITY – A physical or mental impairment that substantially limits one or more major life activities, a Person who has a history or record of such an impairment, or a Person who is perceived by others as having such an impairment.

DOMESTICATED ANIMAL – An animal, as the horse or cat, that has been tamed and kept by humans as a work animal, food source, or pet, especially a member of those species that have, through selective breeding, become notably different from their wild ancestors.

DRIVEWAY – A private drive providing access between a public or private street and a permitted use or structure.

DWELLING, FRONT FACADE - The plane of the facade of the Building closest to the Street Right-of-Way, excluding stoops, porticos, open colonnades, and open porches.

EARTHMOVING ACTIVITY – Any construction or other activity which disturbs the surface of the land including, but not limited to, excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth, excluding the tilling of the soil.

EASEMENT – A right to cross or otherwise Use someone else's land for a specified purpose. Such as ingress or egress or utility installation and maintenance.

EAVELINE – Lower edges of a roof that overhang a Building's exterior walls.

ELECTRIC VEHICLE – Any vehicle that operates in any way on electrical energy which includes but is not limited to the following:

1. A battery Electric Vehicle.
2. A plug-in hybrid Electric Vehicle.
3. A neighborhood Electric Vehicle.
4. A medium-speed Electric Vehicle.

ELECTRIC VEHICLE CHARGING SPACE – An off-street parking space designated for an Electric Vehicle to park while charging.

ELECTRIC VEHICLE CHARGING STATION – A public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy by conductive or inductive means to a battery or other energy storage device in an electric vehicle.

ELECTRIC VEHICLE MAKE READY – Infrastructure that will support the future installation of an Electric Vehicle Charging Station.

ENCROACHMENT, MAJOR – A type of obstruction that is a permanent structure constructed or erected in a fixed location in the public Right-of-Way that is structurally or otherwise integral to abutting property and are assumed to be conveyed with any transfer of the Building to the original permittee's successors or assigns. Major encroachments include but are not limited to foundations, fences, vaults, retaining walls, ramps, steps, balconies and non-standard infrastructure.

ENCROACHMENT, MINOR – A type of obstruction that is minor in nature, posing little long-term physical impact on the public space and which can be removed with relative ease. Minor encroachments are often desirable or convenient, but not necessary or required, for the use and enjoyment of private property and will be considered for permit by the Township where such encroachment does not interfere with the public's safety, convenience, use, or enjoyment of the public Right-of-Way. Minor Encroachments include but are not limited to, planters, benches, bike racks, overhead projecting awnings without footers, overhead projecting signs, Building or mechanical equipment that project over the Right-of-Way (ROW), and most fences.

ENVIRONMENTALLY SENSITIVE AREAS – An area on a development site with one or more of the following characteristics:

1. Any area of archeological significance as defined by the Pennsylvania Archaeological Site Survey;
2. Any Building, structure, object, district, place, site or area significant in the history, architecture, maritime heritage, archaeology or culture of the Commonwealth of Pennsylvania as defined by the Pennsylvania Historical and Museum Commission;

2. Habitats of endangered species or threatened species as designated by applicable Laws, including Environmental Laws

3. Any floodplain or other Special Flood Hazard Area as defined by FEMA;

4. Soils determined by the United States Department of Agriculture defined as being highly erodible and/or having a high water table; and

5. Wetlands and surface waters as defined by Title 25 Chapter 93 of the PA Code including surface waters of exceptional ecological significance and exceptional recreational significance.

EPA – United States Environmental Protection Agency.

EQUINE – Relating to or affecting horses or other members of the horse family.

EQUIPMENT COMPOUND – An area surrounding or adjacent to a wireless support Structure within which base stations, power supplies, or accessory equipment are located.

EXISTING LAND USE – The use of a property as of the date this Ordinance was adopted.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION –A manufactured home park or subdivision for which the construction of facilities for servicing the Lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of Streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXOTIC WILDLIFE – The phrase includes, but is not limited to, all bears, coyotes, lions, tigers, leopards, jaguars, cheetahs, cougars, wolves and any crossbreed of these animals which have similar characteristics in appearance or features. The definition is applicable whether or not the birds or animals were bred or reared in captivity or imported from another state or nation.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION – The expansion to an existing manufactured home park or subdivision – the preparation of additional sites by the construction of facilities for servicing the Lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of Streets, and either final site grading or the pouring of concrete pads).

FAA – Federal Aviation Administration of the United States Department of Transportation.

FAÇADE – The face of a Building, especially the principal front that looks onto a Street or Open Space.

FAMILY – An individual or two or more persons related by blood, foster relationship, marriage, or adoption and up to one (1) unrelated person; or up to four (4) unrelated individuals living and cooking together as a single housekeeping unit with single cooking facilities and shared utility services. Buildings with more than one (1) set of cooking facilities are presumed to contain multiple dwelling units unless it can be shown the additional cooking facilities are clearly accessory, such as an outdoor grill. Shared utility services mean the Dwelling Units is served by one electric meter, one gas line, and/or one sewer line. A roomer, boarder or lodger shall not be considered a member of the family. This definition shall not be construed to include persons occupying Community Residences, Rooming Houses, Boarding Houses, Bed

and Breakfast establishments, Hotels, Motels, Fraternities, Sororities, Short-term Rentals, or other similar lodgings.

FCC – Federal Communications Commission.

FENESTRATION – An architectural feature that provides a real, functional opening that allows light to pass or filter through; or faux opening (a decorative veneer giving the appearance of an opening) in the building façade, through the installation of curtain walls, or recessed or protruding windows or doors.

FINISHED GRADE – The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

FLOOD – A temporary inundation of normally dry land areas.

FLOOD INSURANCE RATE MAP (FIRM) – The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) – The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

FLOODPLAIN AREA – A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or Watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

FLOODPROOFING – Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY – The channel of a river or other Watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOOR AREA, GROSS – See GROSS FLOOR AREA (GFA).

FLOOR AREA, GROSS LEASABLE – The total floor area designed for occupancy by an Owner or tenant, as measured to the center of interior joint walls and the exterior of outside walls.

FOOT CANDLE – A measure of illumination produced by 1 candle, at a distance of 1 foot on a 1 square foot area.

FRACTURE TRACE – Natural, linear-drainage, soil-tonal and topographic alignments, usually visible on aerial photographs, which are commonly the surface manifestations of corresponding zones of fracture concentration within underlying bedrock. Particularly in soluble rocks (e.g., limestone and dolomite), fracture zones cause increased bedrock porosity and permeability, resulting in rates of groundwater movement that are greater than the surrounding bedrock.

FRONTAGE – The linear measurement taken along a property's common boundary with an adjoining Street Right-of-Way, other than that of a limited access highway.

FRONTAGE BUILDOUT – The percentage of the property width that is occupied by the Building facade within the front yard.

FRONTAGE, STREET – The side or sides of a Lot abutting on a public Street or Right-of-Way.

GARAGE, FRONT LOADED - A garage having its vehicular entry door facing the Street.

GARAGE, REAR LOADED - A garage having its vehicular entry door facing an Alley or rear lane.

GARAGE, SIDE LOADED - A garage having its vehicular entry door facing the side yard.

GLARE – Excessive brightness in the field of view that is sufficiently greater than the brightness to which the eyes are adapted, to cause annoyance or loss in visual performance and visibility, so as to jeopardize health, safety or welfare.

GOVERNING BODY – The Board of Supervisors of Middlesex Township, Cumberland County, Pennsylvania.

GRADE (ADJACENT GROUND ELEVATION) – The lowest point of elevation of the finished surface, paving or sidewalk within the area between the Building and the property line. When the property line is more than five (5) feet from the Building, the Grade shall be the lowest point of elevation between the Building and a line five (5) feet from the Building.

GREEN-WALL – A vertically constructed element of a Structure or Building that is functionally designed with a primary purpose of accommodating or featuring living plants across the surface area of the subject Structure or Building plane.

GREENWAY LAND OR OPEN SPACE LAND - A parcel or parcels of land and/or water, within a Conservation Subdivision consisting of Open Space and set aside for the protection of natural and cultural resources. Greenway land consists of Primary and Secondary Conservation Areas and is permanently restricted against further development. The terms "Greenway" and "Greenway land" are synonymous.

GROSS FLOOR AREA (GFA) – The total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the center line of party walls dividing the Building from another Building, of all floors above the average level of finished ground adjoining the Building at its exterior walls.

GROSS LAND AREA – See LAND AREA, GROSS.

GROSS TRACT AREA – The total amount of land contained within the limits of the legally described property lines bounding the tract.

GROUNDWATER – Water that occurs in the subsurface and fills or saturates the porous openings, fractures, and fissures of underground soils and rock units.

HABITABLE FLOOR AREA – The aggregate of the horizontal area of all rooms used for habitation, such as living room, dining room, kitchen, bedroom, but not including hallways, stairways, cellars, attics, service rooms or utility rooms, bathroom, closets, nor unheated areas such as enclosed porches, nor rooms without at least one window or skylight opening onto an outside yard or court. At least one-half of the floor area of every habitable room shall have a ceiling Height of not less than seven (7) feet and the floor area of that part of any room where the ceiling Height is less than five (5) feet shall not be considered as part of the habitable floor area.

HANDICAP – Means, with respect to a Person:

1. a physical or mental impairment which substantially limits one or more of such Person's major life activities,

2. a record of having such an impairment, or

3. being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)).

HISTORIC RESOURCE, HISTORIC STRUCTURE, or HISTORICALLY SIGNIFICANT SITE- Any Structure or site that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a County or local inventory of historic places in communities with historic preservation programs that have been certified either:

   a. By an approved State program as determined by the Secretary of the Interior; or

   b. Directly by the Secretary of the Interior in states without an approved program.

5. Individually listed on the most recent inventory of the Cumberland County Historical Society Register or the Cumberland County Planning Commission inventory.

HAZARDOUS MATERIAL – Substances or materials which, because of their chemical, physical, or biological nature, pose a potential risk to life, health, or property if they are released. A "release" may occur by use, spilling, leaking, emitting toxic vapors, or any other process that enables the material to escape its container, enter the environment, and create a potential hazard. The separate and authoritative definitions are in the U.S. OSHA, U.S. EPA, U.S. Nuclear Regulatory Commission (NRC), and U.S. DOT regulations. These agencies and their state counterparts provide the authoritative definitions of hazardous wastes, radioactive materials, and related definitions.

HEARING – See PUBLIC HEARING.

HEAT – For the purpose of this Ordinance, heat is defined as thermal energy of a radioactive, conductive, or convective nature. Heat emitted at any or all points shall not at any time

cause a temperature increase on any adjacent property in excess of ten (10) degrees F. whether such change be in the air or in the ground, in a natural stream or lake, or in any structure on such adjacent property.

HEIGHT, BUILDING – See BUILDING HEIGHT.

HEIGHT, STRUCTURE – A Structure's vertical measurement taken from average grade along the face of the Structure which is nearest the property line adjacent to a public or private Street Right-of-Way to the highest point of the Structure.

HEIGHT, WIRELESS COMMUNICATIONS FACILITY – The distance measured from the pre-existing grade level to the highest point on the Wireless Communication Facility, even if said highest point is an Antenna or lightning protection device.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HIVE – Any frame hive, box hive, box, barrel, log, gum, skep or other receptacle or container, natural or artificial, or any part thereof, which may be used or employed as a domicile for bees.

HOMEOWNERS ASSOCIATION – Shall be as defined under the Uniform Planned Community Act.

HORIZONTAL SURFACE (ZONE) – An imaginary plane one hundred fifty (150) feet above the established airport elevation that is constructed by swinging arcs of various radii from the center of the end of the primary surface and then connecting the adjacent arc by tangent lines. The radius of each arc is based on the planned approach. The horizontal surface zone, as shown on Figure 2.17.1, Federal Aviation Regulations (FAR), Part 77 Surface Areas, is derived from the horizontal surface.

HOUSEHOLD LIVING – Household living means the use of one or more Dwelling Units located within the Principal Structure of a Lot by a household, in which the units may or may not share a common wall with the adjacent unit or have individual entrances from the outside. Nothing in this Article shall be deemed to limit the ability of lawful occupants of a Dwelling Unit to have bona fide guests.

IDENTIFIED FLOODPLAIN AREA – This term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study but may include additional areas identified by the community. See Section 2.18(D)2. of this Ordinance for the specifics on what areas the community has included in the Identified Floodplain Area.

IMPERMEABLE – Impervious, impenetrable to moisture.

IMPERVIOUS (AREA) COVERAGE – The ratio of the total area on a Lot which is in Impervious Cover, divided by the total area of the Lot, expressed as a percentage. For the purpose of this definition, Impervious Coverage on a Lot encompasses all Impervious Cover plus the entire Building area, including Roof overhangs, cornices, eaves, and gutter.

IMPERVIOUS COVER/SURFACE – A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Includes, but is not limited to, rooftops, parking Lots, driveways, Buildings, Streets, roads, decks, swimming pools and any concrete or asphalt. Impervious cover does not include Pervious Surfaces as defined herein (see PERVIOUS SURFACE).

INFILTRATION – Movement of surface water into the soil, where it is absorbed by plant roots, evaporated into the atmosphere, or percolates downward to recharge ground water.

JUNK – Items or objects that are old, discarded, or not currently being used for the purpose or purposes for which they are designed or normally used, including but not limited to used or salvaged metals and their compounds or combination; used or salvaged rope; rubber; rotting wood; scrap iron; tires and snowmobile treads; parts for motor vehicles, boats, all-terrain vehicles, recreational vehicles, snowmobiles, and/or trailers; inoperable or dismantled refrigerators, stoves, dishwashers, dryers, washing machines, and furniture; and inoperable or dismantled lawn mowers, weed trimmers, snow blowers, snow plows, tractors, and any other machinery used for excavation, maintenance, or snow removal.

JUNKED MATERIALS – The accumulation of used and/or discarded materials with the potential for leaching pollutants into the groundwater, including, but not limited to, trash, appliances, machinery, vehicles, or parts thereof, whether on the land surface, into a sinkhole or into a stream, wetland or other water body.

KARST – A type of topography characterized by closed depressions and/or sinkholes, caves, rock pinnacles, fracture traces, and underground drainage, resulting from solution of limestone and dolomite bedrock.

LAND AREA, GROSS – The total square footage or acreage of a parcel of land prior to subdivision, development, or offer of or acceptance of dedication of land area for access drainage and/or public utility easements and/or Rights-of-Way.

LAND AREA, NET – The Gross Land Area of the property less the land area included in utility easements, drainage easements, ingress/egress easements, rights-of-way, 100-year flood plain and encroachments on or across the Property.

LAND DEVELOPMENT – Any of the following activities:

1.. The improvement of one (1) Lot or two (2) or more contiguous Lots, tracts, or parcels of land for any purpose involving:

a. A group of two (2) or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential Building on a Lot or Lots regardless of the number of occupants or tenure; or

b. The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of or for the purpose of Streets, common areas, leaseholds, condominiums, Building groups, or other features.

2. A Subdivision of land.

Excluded from this definition of land development are the following:

1. The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into not more than three (3) residential units, unless such units are intended to be a condominium.

2. The addition of an accessory Building, including farm buildings, on a Lot or Lots subordinate to an existing principal Building.

3. The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subclause, an amusement park is defined as a tract or area used principally as the location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by proper authorities.

LAND DISTURBANCE – Any activity, which exposes soils, alters topography and/or alters woody vegetation, except for removal of a safety hazard, diseased trees, or invasive plant species.

LANDOWNER – The legal or beneficial Owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other Person having a proprietary interest in land, shall be deemed to be a landowner for the purposes of this Ordinance.

LANDSCAPING – The planting of turf, trees, shrubs, and other appropriate vegetative materials and ground cover within the open areas of a Lot other than for agricultural purposes, and including the maintenance and replacement thereof, for the purposes of erosion control, retention of precipitation, protection against the elements and promotion of human comfort and welfare.

LIGHT EMITTING DIODE (LED) – A semiconductor device that emits light when current flows through it.

LIVESTOCK – Those class of animals that are customarily kept and housed outside the home or in enclosures such as pens, barns, corrals or paddock areas. Livestock includes, but is not limited to, horses, cattle (beef and dairy), llamas, mules, swine, sheep, goats, poultry, and fowl. Animals customarily considered to be domesticated such as dogs, cats and other small pets are not considered Livestock under this Ordinance.

LOT – A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit. Lot types include the following and as illustrated in Figure 6.02.6, Lot Types.

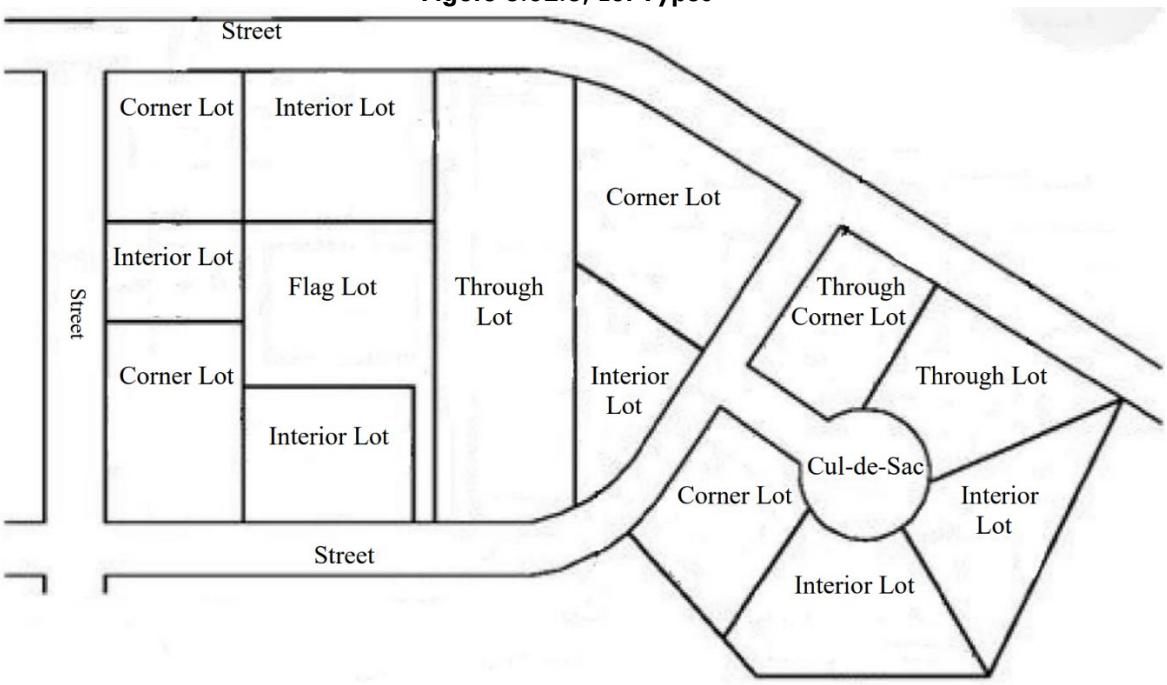
Corner Lot – A Lot at the junction of and abutting on two (2) or more intersecting Streets or private roads or at the point of abrupt change of a single Street or private road, where the interior angle is less than one hundred and thirty-five (135) degrees and the radius of the Street or private road line is less than one hundred (100) feet.

Flag Lot – A Lot that does not fulfill the minimum street frontage requirement for the respective zoning district, but that does have sufficient Lot width away from the Lot's street frontage, and is configured so that access to the public street is by a narrow staff portion containing a private driveway accessing a building site. No more than two such lots may be adjacent to one another, and where two lots are provided, a shared driveway may be provided for the two lots. The front yard of a flag Lot is measured from the place parallel to the street where the Lot width complies with the underlying zoning district for Lot width. Once created, a flag Lot cannot be subdivided into smaller lots.

Interior Lot. – A Lot other than a Corner Lot with only one frontage on a Street other than an Alley.

Through Lot – A Lot other than a Corner Lot with frontage on more than one Street other than an Alley. Through Lots with frontage on two Streets may be referred to as double frontage Lots.

Figure 6.02.6, Lot Types



LOT AREA – The area contained within the property lines of a lot (as shown on the Plat), excluding space within all streets and within all permanent drainage easements, but including the areas of all other easements.

LOT COVERAGE – Expressed as a percentage of the Lot which is covered with impervious surfaces, including Buildings, driveways, parking area, sidewalks or any other "non-green" cover, including semi-impervious or porous pavement materials.

LOT DEPTH – The horizontal distance measured between the Street Right-of-Way line and the rear property line. On corner Lots, reverse frontage Lots, and triangular or other irregularly shaped Lots, the depth shall be measured along the property line adjacent to the side yard which extends from the Street of address to the opposite property line. Where a rear yard is formed by angled or offset property lines, the Lot depth shall be measured as the weighted average distance from the Street Right-of-Way line to the farthest rear property line.

LOT FRONTAGE – See LOT WIDTH.

LOT LINE – A line of record which divides one (1) Lot from another Lot, or from a public or private road or any other public space. Where a Lot abuts a public Right-of-Way, the Lot line for regulatory purposes shall be the Right-of-Way line. Also known as road or Street line (see Figure 6.02.2, Building Coverage).

LOT LINE, ZERO – A Building or Structure sited on one (1) or more lot lines with no yard.

LOT OF RECORD – A Lot identified on a subdivision plan or on a deed or other instrument of conveyance recorded in the Office of the Recorder of Deeds in and for Cumberland County, Pennsylvania.

LOT WIDTH – The mean horizontal distance of a lot between the side lot lines, measured at right angles to its depth. Required lot width shall be measured at the most forward allowable building line or setback line; however, the mean lot width shall not be less than the required lot width.

LOT, DOUBLE FRONTAGE – A Through Lot that fronts upon two parallel Streets or that fronts upon two Streets that do not intersect at the boundaries of the Lot (See Figure 6.02.6).

LOT, REVERSE FRONTAGE – A Lot extending between and having frontage on an Arterial Street and a minor Street, and with vehicular access solely from the latter.

LOWEST FLOOR – The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, Building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a Building, provided that such space is not designed and built so that the structure is in violation of the applicable non¬-elevation design requirements of this Ordinance.

MAINTENANCE AND REPAIR – Work that does not alter the appearance or harm the stability of exterior features of a Building.

MAJOR COMMERCIAL VEHICLE – Those vehicles not normally and customarily associated with or adaptable to passenger use, such as tractor-trailer trucks or bulldozers.

MAJOR RECREATIONAL EQUIPMENT – Includes boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, converted school buses, tent trailers and the like, in cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

MANUFACTURE – A function involving either the processing or production of materials, goods, or products.

MANUFACTURED HOUSING – A structure manufactured after 1975, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. The term shall include any structure which meets all the requirements of this definition with respect to which the manufacturer voluntarily files a certification required by the United States Department of Housing and Urban Development.

MANUFACTURED HOUSING LOT – A parcel of land in a manufactured housing park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single manufactured house.

MANURE – The fecal and urinary excrement of livestock and poultry, often containing some spilled feed, bedding or litter.

MANURE STORAGE FACILITY – A Structure or other improvement built to store manure for future use, or disposal. Types of storage facilities are as follows: underground storage, in ground storage, earthen bank, stacking area, and above-ground storage.

MASSAGE – Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice.

MEDICAL MARIJUANA – Refers to using the whole unprocessed marijuana plant or its basic extracts to treat a disease or symptom.

MICRO WIRELESS FACILITY – A small wireless communications facility that:

(1) Does not exceed two cubic feet in volume; and

(2) Has an exterior Antenna no longer than eleven (11) inches.

MINERAL RESOURCE – Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.

MINOR REPAIR – The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a Structure affecting the exit way requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

MODIFICATION OR MODIFY – The improvement, upgrade, or expansion of existing wireless communications facilities or base stations on an existing wireless support Structure or the improvement, upgrade, or expansion of the wireless communications facilities located within an existing equipment compound, if the improvement, upgrade, expansion or replacement does not substantially change the physical dimensions of the wireless support Structure.

MODULAR (INDUSTRIALIZED) HOME – A home that is wholly or mostly made, constructed, fabricated or assembled in manufacturing facilities. These Structures are then shipped to the home site for assembly and installation. A modular home is designed only for installation on a site built permanent foundation and not to be moved after the installation.

MOTOR VEHICLE – A Vehicle that is self-propelled except an electric personal assistive mobility device or a Vehicle which is propelled solely by human power.

NATIVE SPECIES – A species of plant of other organism that currently or previously inhabited or grew in a specified location, and which was not introduced to that location as a result of human activity, either intentional or accidental. The term "native" species generally refers to a species whose range was located within a large area like a continent or a nation. The term "indigenous" species is typically used to refer to a species whose original range extended into a smaller area like a state, county, or watershed.

NEIGHBORHOOD DESIGN DEVELOPMENT – An optional type of mixed-use development including a compatible mixture of residential, business, and other nonresidential uses, including Lots and buildings that provide for a mix of uses on the same Lot or within the same Building on

both the horizontal and vertical planes. Residences, shops, offices, workplaces, public gathering spaces, and parks are generally interwoven within the development so that all are within relatively proximity to each other. The development is relatively compact and oriented toward pedestrian activity. Generally, the development has a center and an edge. Generally, the Streets are laid out with an interconnected network of Streets, Alleys, and walkways, and blocks that provide multiple routes from origins to destinations and are appropriately designed to serve the needs of pedestrians, and vehicles. The development is subject to flexible standards that help to balance form and function.

NET ACRE – The Gross Tract Area less any areas that are not suitable for development or are designated for conservation.

NEW CONSTRUCTION – Structures for which the start of construction commenced on or after the effective start date of this Ordinance and includes any subsequent improvements to such structures.

NONCONFORMING LOT – A Lot, of which the area or dimension was lawful prior to the adoption or amendment of a zoning ordinance, but now fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

NONCONFORMING STRUCTURE – A Structure or part of a Structure manifestly not designed to comply with the applicable zoning ordinance or amendment heretofore or hereafter enacted, where such Structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming Structures include, but are not limited to, nonconforming Signs.

NONCONFORMING USE – A Use, whether of land or of Structure, which does not comply with the applicable Use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such Use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

NONCONFORMITY, DIMENSIONAL – Any aspect of a land use that does not comply with any size, Height, bulk, setback, distance, landscaping, coverage, screening, or any other design or performance standard specified by this Ordinance, where such dimensional nonconformity lawfully existed prior to the adoption of this Ordinance or amendment thereto.

NORMAL AGRICULTURAL OPERATION – The activities, practices, equipment and procedures that an Agricultural Operation adopts, uses or engages in the production and preparation for market of poultry, livestock and their products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities and is: (1) not less than ten contiguous acres in area; or (2) less than ten contiguous acres in area but has an anticipated yearly gross income of at least $10,000. The term includes new activities, practices, equipment, and procedures consistent with technological development within the agricultural industry. Use of equipment shall include machinery designed and used for agricultural operations, including, but not limited to, crop dryers, feed grinders, sawmills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing and those items of agricultural equipment and machinery defined by the act of December 12, 1994 (P.L. 944, No. 134), known as the Farm Safety and Occupational Health Act. Custom work shall be considered a normal farming practice.

NUTRIENT MANAGEMENT ACT – The PA Nutrient Management Act of 1993, which is applicable to agricultural operations with over 2,000 pounds of animal weight per acre which generate or utilize manure. The Act requires the development of a plan demonstrating that nutrients that are land applied do not exceed crop uptake.

OBSCENE – Any material that an average person, applying contemporary adult community standards, finds that the matter taken as a whole, appeals to prurient interests (i.e., an erotic, lascivious, abnormal, unhealthy, degrading, shameful, or morbid interest in nudity, sex, or excretion) and would find that the matter depicts or describes sex in a patently offensive way, and finds that the matter, taken as a whole, lacks serious literary, artistic, political, scientific value.

OBSTRUCTION – Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth by this Ordinance.

ON-LOT SEWER SERVICE – The disposal of sewage generated by a user on land by safe and healthful means, as approved by the Township On-Lot Management Ordinance.

ON-LOT WATER SERVICE – The provision of a safe, adequate and healthful supply of water to a user from a private well.

OPEN SPACE – A parcel or parcels of land or an area of water, or a combination of land and water, within a development site, designed and intended for the use and enjoyment by the residents of such development, and possibly the general public. Open space shall be substantially free of structures, but may contain such improvements as are in the finally approved Development Plan, and shall not include individually owned private yards, except in the case of approved conservancy lots. Open space is permanently restricted against further development. Open Space may be a combination of natural or naturalized areas (such as the Township interconnected greenway network) plus more intensely managed areas (such as lawn, recreational areas, or play fields).

OPEN SPACE, COMMON – A parcel or parcels of land or an area of water, including natural areas, or a combination of land and water, within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

OWNER – Owner means the Person with legal title to real property, a Building, or Structure.

PA DEP - The Department of Environmental Protection of the Commonwealth of Pennsylvania.

PEN – A fenced area designed to contain the animal to a restricted area and prevent animals roaming at large.

PENNSYLVANIA CONSTRUCTION CODE (PCC) ACT – Act of Nov. 10, 1999, P.L. 491, No. 45 as amended. The statewide Building code adopted by the Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial Buildings, the code adopted the International Residential Code (IRC) and the International Building Code (IBC), by reference as the construction standard applicable with the Commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC such references shall be based on the most recently adopted editions thereof. Also see UNIFORM CONSTRUCTION CODE.

PENNSYLVANIA MUNICIPALITIES PLANNING CODE (MPC) – Act of 1968, P.L. 805, No. 247 as reenacted and amended.

PERMANENT FOOD FACILITY – A retail food facility operating in a permanently constructed Structure permitted and operated for the purpose of storing, preparing, serving, packaging, or otherwise handling food at the retail level. Permanent Food Facility does not include Mobile Food Facility, or a facility licensed as a Temporary Food Service Facility (TFS) under The Retail Food Facility Safety Act §5703(g)(2).

PERSON – Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 of the United States Code, receivers, and fiduciaries.

PERVIOUS SURFACE – A pervious surface is a surface that allows the percolation of water into the underlying soil. Pervious surfaces include grass, mulched groundcover, planted areas, vegetated roofs, permeable/porous paving as well as porches and decks erected on pier foundations that maintain the covered Lot surface's water permeability. Pervious surfaces do not include any Structure or Building, any porch or deck that limits the covered Lot surface from absorbing water, or any outdoor stairs, on-grade surface sports court, swimming pool, artificial turf, sidewalk or patio constructed of concrete, asphalt, brick, compacted gravel or other material that impedes the infiltration of water directly into the subsurface of the Lot.

PESTICIDE – Any substance or mixture of substances intended for use in preventing, destroying, repelling, sterilizing, or mitigating any insects, rodents, nematodes, predatory animals, fungi, weeds, or other forms of plant or animal life.

PETROLEUM PRODUCT – Oil petroleum of any kind and in any form, including crude oil and derivatives of crude oil. It may be alone, as a sludge, as oil refuse, or mixed with other wastes.

PLANNED COMMUNITY – Real estate with respect to which a person, by virtue of ownership of an interest in any portion of the real estate, is or may become obligated by covenant, easement or agreement imposed on the owner's interest to pay any amount for real property taxes, insurance, maintenance, repair, improvement, management, administration or regulation of any part of the real estate other than the portion or interest owned solely by the person. The term excludes a cooperative and a condominium, but a condominium or cooperative may be part of a planned community. For purposes of this definition, "ownership" includes holding a leasehold interest of more than 20 years, including renewal options, in real estate. The term includes nonresidential campground communities.

PLANNING COMMISSION – The Planning Commission of Middlesex Township, Cumberland County, PA.

PORCH – A non-enclosed or semi-enclosed Roof covered Accessory Structure adjoining a first floor entrance to a Building.

POST-FIRM STRUCTURE – A structure for which construction or substantial improvement occurred after December 31, 1974, or on or after the community's initial Flood Insurance Rate Map (FIRM) dated June 15, 1981, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.

PRE-COMMERCIAL TIMBER STAND IMPROVEMENT – A forest practice, such as thinning or pruning, which results in better growth, Structure, specific composition, or health for the residual stand but does not yield a net income to the landowner, usually because any trees cut are of poor quality, too small or otherwise of limited marketability or value.

PRE-FIRM STRUCTURE – A structure for which construction or substantial improvement occurred on or before December 31, 1974, or before the community's initial Flood Insurance Rate Map (FIRM) dated June 15, 1981, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.

PREMISES – The property upon which the activity is conducted as determined by physical facts rather than property lines. It is the land occupied by the Buildings or other physical uses that are necessary or customarily incident to the activity, including such Open Spaces as are arranged and designed to be used in connection with such Buildings or uses.

PRESERVATION OR PROTECTION – When used in connection with natural and historic resources, shall include means to conserve and safeguard these resources from wasteful or destructive use but shall not be interpreted to authorize the unreasonable restriction of forestry, mining or other lawful uses of natural resources.

PRIMARY SURFACE (ZONE) – An imaginary surface longitudinally centered on the runway, extending 200 feet beyond the end of paved runways or ending at each end of turf runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The primary surface zone, as shown on Figure 2.17.2 under Section 2.17 of this Ordinance, is derived from the primary surface.

PRIME AGRICULTURAL LAND – Land used for agricultural purposes that contains soils of the first, second or third class, or is considered to be unique agricultural land, all as defined by the United States Department of Agriculture Natural Resource and Conservation Services County Soil Survey.

PRINCIPAL BUILDING – A Building in which the primary use of the Lot on which the Building is located is conducted.

PROPERTY OWNER – A Person that holds either legal or equitable title to the real estate as set forth on any deed, agreement of sale, or any other document recorded in the Office of the Recorder of Deeds for the applicable jurisdiction.

PUBLIC – Owned, operated, or both, by the Township, its authority, a municipal-supported fire company, or a municipal-supported ambulance association.

PUBLIC HEARING – A formal meeting held pursuant to public notice by the Middlesex Township Board of Supervisors or Zoning Hearing Board intended to inform and obtain public comment, prior to taking action in accordance with the Pennsylvania Municipalities Planning Code.

PUBLIC MEETING – A forum held pursuant to notice under 65 Pa.C.S. Ch. 7 (relating to open meetings.)

PUBLIC NOTICE – Notice published once each week for two (2) successive weeks in a newspaper of general circulation in Middlesex Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing. Public notice for rezoning, special

exception, variance, or any combination thereof, requests shall also include the posting of a sign(s) at a conspicuous location(s) upon the site to notify potentially interested citizens; this sign(s) shall be posted at least one week prior to the hearing and will exhibit the nature, date, time and location of the hearing.

PUBLIC SEWER – A municipal sanitary sewer or a comparable common or package sanitary facility approved and permitted by the Pennsylvania Department of Environmental Protection.

PUBLIC WATER – A municipal water supply system, or a comparable common water facility approved and permitted by the Pennsylvania Department of Environmental Protection.

REAL ESTATE -- Any fee, leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interests which by custom, usage or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. The term includes parcels with or without upper or lower boundaries and spaces that may be filled with air or water.

REAR ACCESS LANE – A lane for the purpose of providing access to rear yard parking for a group of Lots. Such a lane may be designated within a Right-of-Way or by way of easements.

RECREATIONAL VEHICLE – A Vehicle built on a single chassis, not more than four hundred (400) square feet measured at the largest horizontal projections, designed to be self-propelled or permanently towable by a consumer-owned Vehicle, not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use that complies with all applicable Federal vehicle regulations and is certified by the manufacturer as complying with NFPA 1192 Standard on Recreational Vehicles or ANSI A119.5 Park Model Recreational Vehicle Standard and includes the following types:

1. Motor home.
2. Travel trailer.
3. Fifth wheel travel trailer.
4. Folding camping trailer.
5. Truck camper.
6. Park model RV.

REGISTERED DESIGN PROFESSIONAL – A professional engineer, land surveyor or professional geologist licensed by the State Registration Board for Professional Engineers, Land Surveyors and Geologists under the act of May 23, 1945 (P.L. 913, No. 367), known as the "Engineer, Land Surveyor and Geologist Registration Law, " a landscape architect who is licensed by the State Board of Landscape Architects under the act of January 24, 1966 (1965 P.L. 1527, No. 535), known as the "Landscape Architect's Registration Law, " or any corporation or association, including professional corporations, organized or registered under the act of December 21, 1988 (P.L. 1444, No.177), known as the "General Association Act of 1988," practicing engineering, landscape architecture or surveying in this Commonwealth.

REGULATORY FLOOD ELEVATION -- The base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1 ½) feet. The freeboard safety factor also applies to utilities and ductwork.

RENTALS – A procedure by which services or personal property are temporarily transferred to another Person for a specific time period for compensation.

REPAIR – A function involved in correcting deficiencies of products that affect its performance, appearance, or both.

REPLACEMENT OF A WIRELESS COMMUNICATIONS FACILITY (REPLACEMENT OF WCF) – The replacement of existing wireless communications facilities on an existing wireless support Structure or within an existing equipment compound due to maintenance, repair, or technological advancement with equipment composed of the same wind loading and structural loading that is substantially similar in size, weight, and Height as the wireless communications facilities initially installed and that does not substantially change the physical dimensions of the existing wireless support Structure.

REPORT – Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such Report in the rendering of any Decision or Determination. All Reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body, or agency, nor shall any appeal lie therefrom. Any Report used, received or considered by the body, board, officer or agency rendering a Determination or Decision shall be made available for inspection to the Applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

RIGHT-OF-WAY (ROW) – An area acquired or reserved for Streets, Street trees (or landscaping), drainage, utilities and pedestrian ways owned by a public or private Person. When used in the regulation of Wireless Telecommunications Facilities, the surface of and space above and below any real property in the Township in which the Township has a regulatory interest, or interest as a trustee for the public, as such interests now or hereafter exist, including, but not limited to, all Streets, highways, avenues, roads, Alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area or property under the control of the Township, and any unrestricted public or utility easements established, dedicated, platted, improved or devoted for utility purposes, but excluding lands other than Streets that are owned by the Township. The phrase "in the right(s)-of-way" means in, on, over, along, above and/or under the right(s)-of-way.

RIPARIAN BUFFER – A riparian buffer is an area of trees and other vegetation adjacent to a Watercourse that forms a transition area between the aquatic and terrestrial environment. The riparian buffer provides the following benefits: (1) reduces the amount of nutrients, sediments, pesticides, and other harmful substances that reach watercourses, wetlands, and other surface water bodies; (2) provides for shading of the aquatic environment to moderate temperatures and protect fish habitat; (3) provides organic matter which provides food and habitat for bottom dwelling organisms essential to the food chain; (4) increases stream bank stability and reduces stream bank erosion and sediment production; (5) conserves natural features important to land and water features (e.g., headwater areas, groundwater recharge zones, streams, prime wildlife habitat); and (6) conserves natural, scenic, and recreation areas and promotes the functioning of interconnected natural greenway lands.

ROLL-OFF DUMPSTER – A metal storage receptacle used primarily for the temporary storage or deposit of waste materials, including debris, trash or construction, renovation or demolition waste and which is transportable such as to be delivered by, rolled off of, and picked up by a carrying vehicle that allows for the disposal and removal of its contents to a dump site.

The term does not include dumpsters which are permanently placed for the collection of normal household trash, such as at commercial locations or apartment complexes.

ROOF – An Impervious Cover of a Building or Structure.

RUNWAY – A defined area of an airport prepared for landing and takeoff of aircraft along its length.

RUNWAY, NON-PRECISION INSTRUMENT – A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

RUNWAY, OTHER THAN UTILITY – A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

RUNWAY, PRECISION INSTRUMENT – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precisions Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

RUNWAY, UTILTY – A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

RUNWAY, VISUAL – A runway intended solely for the operation of aircraft using visual approach procedures.

SAFETY FAN – An area on a Shooting Range Facility designed to contain all projectiles fired from a shooting range. The Safety Fan consists of three parts: the direct fire zone, the safety zone, and the ricochet zone. The direct fire zone is that area into which all shots are fired during the normal course of shooting.

SCREEN BUFFER OR VISUAL SCREEN – A well-maintained hedge, landscaped berm, or other vegetative materials which upon planting or installation is both of sufficient height and of sufficient density to conceal from the view of adjacent properties the structures and uses on the premise where the screening is located.

SETBACK – The minimum required horizontal distance between a setback line and a property or Street Right-of-Way line.

SETBACK LINE – A line parallel to the front, side or rear Lot line so as to provide the required yards. See Figure 6-2.

SETBACK, FRONT – The minimum distance between the Street line and the Building setback line projected the full width of the Lot. Commonly, called “required front yard”.

SETBACK, REAR – The minimum distance between the rear Lot line and the rear setback line projected the full width of the Lot. Commonly called “required rear yard”.

SETBACK, SIDE – The minimum distance between the side Lot line and the side setback line projected from the front yard to the rear yard. Commonly called “required side yard”.

SIGN – A device for outdoor visual communication that is used to bring the subject to the attention of the public, but excluding flags or other insignia of any government, fraternal, or similar organization. A Sign shall include the support structure by which it is attached to or displayed upon the ground, a Building, or another structure. Sign area shall be defined and determined in accordance with Article 5 of this Ordinance. Sign types include, but are not limited to the following:

1. Billboard: A type of Sign upon which images and/or messages of any kind are printed, posted, or lettered, whether freestanding or attached to a surface of a Building or other structure. A billboard is used to advertise products, services or businesses or to disseminate messages at a location other than the premises on which the Sign is placed.

2. Changeable Sign: A type of sign that is designed so that its characters, letters, illustrations or other content can be changed, altered or rearranged without physically altering the permanent physical face or surface of the sign. This sign type includes Bulletin Boards permitted in accordance with Section 5.07(P) of this Ordinance, Retail Fuel Sales Signs permitted in accordance with Section 5.10 of this Ordinance, manual, electrical, Electronic Messaging Center (EMC) Sign, Light Emitting Diode (LED) or other variable message signs. Section 5.11 of this Ordinance provides additional regulations for Changeable Signs.

3. Electronic Message Center (EMC) Signs: A Sign that is capable of displaying words, symbols, figures or images that can be electronically changed by remote or automatic means.

4. Flat Wall Sign: A Sign that is displayed and/or mounted upon or generally parallel to the same plane as the face of a wall, such that no portion of the Sign extends more than twelve (12) inches from said wall.

5. Freestanding Sign: A Sign erected upon a permanently affixed, independent structure (legs or base). Freestanding signs shall include pole signs that are attached to the ground or other structure by means of a pole or poles supporting the Sign and monument signs that sit upon or are attached directly to the ground.

6. Permanent Sign: A Sign that is expected to be continuously displayed during the presence of a principal land use.

7. Temporary Sign: A Sign that is only allowed for specified periods of time, associated with some temporary event or work, conducted on the site.

8. Under Canopy Sign: A Sign that identifies one (1) leasable unit within a premises and is hung from an overhead canopy of the premises.

9. Wall Projecting Sign: A Sign that is mounted to a Building wall such that its principal display area is not parallel to the Building wall. A wall projecting Sign can also be attached to a marquee.

For the purposes of this Ordinance, Signs, shall not include the following:

10. Flags and insignias of any governmental agency or civic, charitable, religious, fraternal, or similar organization.

11. Legal notices identification, informational, or directional signs erected or required by governmental bodies.

12. Signs which are solely devoted to prohibiting trespassing, hunting, or fishing.

SIGN, ABADONED – Shall mean the following:

1. A Sign which has remained without true advertising for a period of six (6) months, and for which the Sign owner has not made application for a current permit as provided hereinbelow, or which is without a current lease or license from the landowner, or as to which the Sign owner has ceased to attempt to lease the advertising space; or

2. A Sign which requires maintenance or repair in excess of twenty-five percent (25%) of the replacement cost of the Sign as determined by the Zoning Officer after consultation with the Sign owner if said owner can be identified from the permit previously issued for such Sign.

SIGNIFICANT BUILDING OR STRUCTURE – Means any Building or Structure within the Township that:

1. Is listed on, or is within an area listed on, the National Register of Historic Places, or which is the subject of a pending application for listing on the National Register,

   OR

2. Is at least fifty (50) years old, or if it has been determined by The Township Board of Supervisors to be a significant Building or Structure after a finding that the Building or Structure is either:

   (a) Importantly associated with one or more Historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the Township or the Commonwealth of Pennsylvania, or

   (b) Historically or architecturally significant (in terms of period, style, method of Building construction, or association with a reputed architect or builder) either by itself or in the context of a group of Buildings or Structures, and therefore it is in the public interest to be preserved or rehabilitated rather than to be demolished.

SINKHOLE – A closed, generally circular, depression in the land surface of variable depth and width, characterized by a distinct breaking of the ground surface, and formed by solution of carbonate bedrock and downward movement of soil into bedrock voids or by collapse of underlying caves.

SLOPE – The change in elevation over the horizontal distance between consecutive contour lines. Slope shall be measured over three (3) consecutive two (2) foot contour intervals [six (6) cumulative vertical feet of slope]. All slope measurements shall be determined by a topographic survey signed and sealed by a Professional Engineer or a Professional Land Surveyor.

SMALL WIRELESS COMMUNICATIONS FACILITY – A wireless communications facility that meets the following criteria:

1. The wireless support Structure on which Antenna facilities are mounted—

   (a) Is fifty (50) feet or less in Height, or

   (b) is no more than ten (10) percent taller than other adjacent structures, or

   (c) is not extended to a Height of more than fifty (50) feet or by more than ten (10) percent above its pre-existing Height as a result of the Collocation of new Antenna facilities; and

2. Each Antenna associated with the deployment (excluding the accessory equipment) is no more than three (3) cubic feet in volume; and

3. All accessory equipment associated with the wireless support Structure (excluding antennas) is cumulatively no more than twenty-eight (28) cubic feet in volume.

4. The wireless communications facility does not require Antenna Structure registration under 47 CFR Section 17;

5. The wireless communications facility is not located on Tribal lands, as defined under 36 CFR 800.16(x); and

6. The wireless communications facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR 1.1307(b).

SMALL WIRELESS FACILITIES DEPLOYMENT ACT – Act of Jun. 30, 2021, P.L. 232, No. 50.

SOLAR ARRAY – A grouping of multiple solar modules/panels with the purpose of harvesting solar energy.

SOLAR CELL – The smallest basic solar electric device which generates electricity when exposed to light.

SOLAR ENERGY SYSTEM – A complete design or assembly consisting of a solar energy Collector, an energy storage facility (where used), and components for the distribution of transformed energy.

SOLAR MODULE – A grouping of solar cells with the purpose of harvesting solar energy.

SOLAR PANEL – That part or portion of a Solar Energy System containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and cooling, and/or for electricity.

SPECIAL EXCEPTION USE – A Use conditionally permitted in a particular Zoning District under this Ordinance that may be undertaken only following the approval by the Zoning Hearing Board and the subsequent issuance of a Zoning Permit by the Zoning Officer pursuant to standards and criteria established in this Ordinance.

SPECIAL FLOOD HAZARD AREA (SFHA) – Means an area in the Floodplain subject to a one (1) percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1 A30, AE, A99, or, AH.

SPECIFIED ANATOMICAL AREAS – Means any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola.

2. Human male genitals in a discernable turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES – Means any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.

2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.

3. Excretory functions as a part of or in connection with any of the activities set forth in 1. or 2. this definition.

SPECIMEN TREE – A unique, rare, or otherwise specifically selected tree or plant considered worthy of conservation by the Township, because of its species, size, age, shape, form, historical importance, or any other significant characteristics, including listing as a Species of Special Concern by the Commonwealth of Pennsylvania (see Table 6.02.1). All healthy trees over twenty (20) inches DBH are considered specimen. *Note: Not all trees reach specimen size at the same diameter. For example, a dogwood or sassafras is considered large at 20 inches, while an oak may not be considered large until it is about thirty-two (32) inches. A more accurate, but more complex, method of designating specimen trees is to give size parameters for each species, as in the following Table 6.02.1. Noninvasive species not listed in the table, having a DBH twenty (20) inches or greater, are considered specimen.*

Table 6.02.1, Specimen Trees

Species	Min. Size (DBH)	Species	Min. Size (DBH)	Species	Min. Size (DBH)
		Locust	30”	Spruce	30”
Ash	32”	Maple	32”	Sycamore	36”
Beech	32”	Oak	32”	Tulip Tree	36”
Cherry	24”	Osage Orange	20”	Walnut	30”
Elm	30”	Pine	30”	Hickory	32”
Hemlock	30”	Sassafras	20”	--	--

STORM WATER MANAGEMENT BASIN – Any facility used to retain or detain storm water, that is part of a storm water management system.

STORY – The part of a Building between the surface of any floor and the next floor above it or in its absence, the finished Story if its floor level is six (6) feet or more above the level of the line of the finished floor next below it. Any floor under a sloping roof at the top of a Building, which is more than two (2) feet below the top plate shall be counted as a Story; and, if less than two (2) feet below the top plate, it shall be counted as a half-Story. A basement shall

be counted as a Story if it averages more than five (5) feet above grade (See Figure 6.02.1).

STREAM – A Watercourse with definite bed and banks which confine and convey continuously or intermittently flowing water.

STREAM, EPHEMERAL – A reach of stream that flows only during and for short periods following precipitation and flows in low areas that may or may not have a well-defined channel. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Some commonly used names for ephemeral streams include: stormwater channel, drain, swale, gully, hollow, saddle, and routinely and incorrectly as "dry streams." The term is often used interchangeably with intermittent stream but the difference is in length of time of continuous flow (less than one month per year for ephemeral streams).

STREAM, INTERMITTENT – A reach of stream that flows only during wet periods of the year (30% - 90% of the time) and flows in a continuous well-defined channel. During dry periods, especially in summer months, intermittent streams may be reduced to a trickle of water which makes it appear dry, when in fact there is water flowing through the stream bottom or "substrate". This is usually caused by the seasonal changes of the local soil water table or during periods of long-term drought.

STREAM, PERENNIAL – A body of water in a channel that flows throughout a majority of the year in a defined channel and is capable, in the absence of pollution, drought or man-made stream disturbances, of supporting a benthic macroinvertebrate community that is composed of two or more recognizable taxonomic groups of organisms, large enough to be seen by the unaided eye and can be retained by a U.S. Standard No. 30 sieve (28 meshs per inch, 0.595 mm openings) and live at least part of their life cycles within or upon available substrates in a body of water or water transport system. A perennial stream can have Q7-10 flow of zero. For the purposes of this document, a perennial stream includes lakes and ponds.

STREET – Any Street, avenue, boulevard, road, highway, freeway, parkway, lane, viaduct, or any other way used or intended for use by vehicular traffic or pedestrians, whether public or private. The word "Street" includes the entire Right-of-Way and is not limited to the cartway area. Streets in Middlesex Township include the following classification types:

1. *Interstates*. Limited Access Highways designed for traffic between major regional areas or larger urban communities of 50,000 or more; these highways extend beyond state boundaries with access limited to interchanges located by the U.S. Department of Transportation. Middlesex Township includes Interstates 76 (Pennsylvania Turnpike) and Interstate 81. See Table 6.02.2, Middlesex Township Roadway Classifications.

2. *Principal Arterials*. Roadways that provide land access while retaining a high degree of thru traffic mobility and serve major centers of urban activity and traffic generation. They provide a high speed, high volume network for travel between major destinations in both rural and urban areas. See Table 6.02.2, Middlesex Township Roadway Classifications.

3. *Minor Arterials*. Roadways that give greater emphasis to land access with a lower level of thru traffic mobility than Principal Arterials and serve larger schools, industries, hospitals, and small commercial areas not incidentally served by Principal Arterials. See Table 6.02.2, Middlesex Township Roadway Classifications.

4. *Collectors*. Collector roadways serve dual functions—collecting traffic between Local Roadways and Arterial Streets and providing access to Abutting properties. They serve minor traffic generators, such as local elementary schools, small individual industrial plant, office, commercial facilities, and warehouses not served by Principal and Minor Arterials. See Table 6.02.2, Middlesex Township Roadway Classifications.

5. *Local Roads*. Roadways that are local in character and serve farms, residences, businesses, neighborhoods, and Abutting properties. See Table 6.02.2, Middlesex Township Roadway Classifications.

Table 6.02.2
Middlesex Township Roadway Classifications

Classifications	Roadways
Interstate	I-76 & I-81
Principal Arterial	U.S. Route 11
Minor Arterials	PA Route 34, PA Route 641
Collectors	PA Route 944, Sunnyside Drive, Harmony Hall Road, Claremont Drive, Claremont Road and a portion of South Middlesex Road
Local Roads	All others

Source: Middlesex Township Comprehensive Plan, February 2003

STEEP SLOPES - Areas of land, 3,000 square feet or greater, where the grade is fifteen (15) percent or greater. Steep slopes are divided into the following categories:

1. Precautionary moderate to steep slopes are those areas of land where the grade is fifteen (15) to twenty-five (25) percent.

2. Prohibitive steep slopes are those areas of land where the grade is greater than twenty-five (25) percent.

Slope shall be measured as the change in elevation over the horizontal distance between consecutive contour lines. Slope shall be measured over three (3) consecutive two (2) foot contour intervals, i.e., six (6) cumulative vertical feet of slope). All slope measurements shall be determined by a topographic survey signed and sealed by a Registered Design Professional.

START OF CONSTRUCTION – Includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days after the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time

extension is granted, in writing, by the Zoning Officer. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of Streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a Building, whether or not that alteration affects the external dimensions of the Building.

STORAGE TANK, ABOVEGROUND – A tank which contains hazardous or petroleum substances as regulated under the Storage Tank and Spill Prevention Act (STSPA), as amended, and which meets the following criteria: a stationary tank with 250 gallons or more of capacity with greater than ninety (90) percent of its capacity above ground. Specific exceptions to this definition are included within the STSPA, and include, among others, on-premise heating fuel tanks, and farm or residential motor fuel tanks with a capacity of 1,100 gallons or less.

STORAGE TANK, EXEMPTED – Any tank or container which contains hazardous or petroleum substances, either above or underground, which is otherwise unregulated by the Storage Tank and Spill Prevention Act (STSPA), as amended. For the purpose of this Ordinance, exempted tanks are limited to the following: on premise heating fuel tanks, farm or residential motor fuel tanks with a capacity of 1,100 gallons or less, and tanks, drums or containers with a capacity of less than one hundred ten (110) gallons which contain hazardous substances.

STORAGE TANK, UNDERGROUND – A tank which contains hazardous or petroleum substances as regulated under the Storage Tank and Spill Prevention Act (STSPA), as amended, and which meets the following criteria: a tank with one hundred ten (110) gallons or more of capacity with ten (10) percent or greater of its capacity beneath the ground surface. Specific exceptions to this definition are included within the STSPA, and include, among others, on-premise heating fuel tanks, farm or residential motor fuel tanks with a capacity of 1,100 gallons or less.

STREET CENTERLINE – A baseline used for the layout of Lots and the construction of a cartway generally midway between the Street lines.

STREET FRONTAGE – See Frontage, Street.

STREET LINE (RIGHT-OF-WAY LINE) – A line defining the edge of a Street Right-of-Way and separating the Street from abutting property or Lots.

STREET WALL – The façade wall of a Building or portion of a wall facing a Street line.

STRUCTURE – Any assembly of materials constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, any portion of which is above the natural surface grade, including, but not limited to Buildings, sheds, cabins, manufactured houses and trailers, pavilions, pagodas, tents, kennels, swimming pools, dumpsters, fences, dams, culverts, roads, railroads, bridges, storage tanks, and signs.

STRUCTURE, ACCESSORY – A Structure associated with an accessory use, (e.g., swimming pools, patios, antennas, tennis courts, garages, utility shed, etc.).

STRUCTURE, PRINCIPAL – A Structure associated with a primary use. Structures shall not include such things as temporary fences, sandboxes, decorative fountains, swing sets, doghouses, birdhouse, bird feeders, mailboxes, and any other similar non-permanent improvements.

SUBDIVISION – The division or redivision of a Lot, tract or parcel of land by any means into two (2) or more Lots, tracts, parcels or other divisions of land including changes in existing Lot lines for the purpose, whether immediate or future, of lease, partition of the court for distribution to heirs or devisees, transfer of ownership or Building or Lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new Street or easement of access, or any residential dwelling, shall be exempted.

SUBSTANTIAL CHANGE – A modification substantially changes the physical dimensions of any support Structure if it meets the criteria established by 47 CFR §1.6100.

SUBSTANTIAL DAMAGE – Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent of the market value of the structure before the Start of Construction of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

SURFACE WATERS – Perennial and Intermittent streams, rivers, lakes, reservoirs, ponds, wetlands, springs, natural seeps and estuaries, excluding water at facilities approved for wastewater treatment such as wastewater treatment impoundments, cooling water ponds and constructed wetlands used as part of a wastewater treatment process.

TEMPORARY PORTABLE STORAGE UNIT (commonly known as PORTABLE ON DEMAND STORAGE or PODS®) – Any mobile container, storage unit, shed-like container or other portable Structure that is not permanently affixed to the land, is designed for temporary short-term storage, is not intended for human habitation, that can be or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed Building, other than an accessory Building or shed complying with all Building codes and land use requirements.

TERMINAL VISTA – The visual scene terminating the view down a road or Street, as at an intersection or on the outside of a curve.

TESTING – A function involving the examination and assessment of qualities, performances, capabilities, or any combination thereof, of a product, good or material.

TOTAL FLOOR AREA – The area of all floors in all Buildings measured to the outside of the exterior walls, excluding attics, basements, and open porches (measured in square feet). (Note: An "open porch" has a Roof but is not enclosed with screens or windows. Porches enclosed with screens or windows shall be counted toward Total Floor Area.)

TOWER-BASED WIRELESS COMMUNICATIONS FACILITY (TOWER-BASED WCF) – Any Structure that is used for the primary purpose of supporting one or more antennae, including, but not limited to, self-supporting lattice towers, guy towers, and monopoles, and the accompanying Antenna and Accessory Equipment.

TOWNSHIP – Middlesex Township, Cumberland County, Pennsylvania.

TRACT AREA, ADJUSTED OR ADJUSTED TRACT AREA – The gross tract area minus the constrained land.

TRACT AREA, GROSS – The total amount of land contained within the limits of the legally described property lines bounding the tract.

TRAILER – A vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

TRANSITIONAL SURFACE (ZONE) – An imaginary surface that extends outward and upward from the edge of the primary and approach surfaces to the horizontal surface at a slope of seven (7) feet horizontally to one (1) foot vertically (7:1). The transitional surface zone, as shown on Figure 2.17.2 in Section 2.17 of this Ordinance, is derived from the transitional surface.

TRUCK – A motor vehicle or a combination of vehicles having a gross vehicle weight rating or gross combination weight rating in excess of 26,000 pounds primarily designed to carry cargo, freight, goods or material. For purposes of this definition, the gross vehicle weight rating shall be the value specified on the Federal weight certification label by the manufacturer as the loaded weight of a single vehicle and the gross combination weight rating shall be the value specified by the manufacturer as the load weight of a combination.

UNDERGROUND INJECTION WELL – A bored, drilled, driven or dug well for the emplacement of fluids into the ground (except geothermal exchange systems and drilling muds and similar materials used in well construction).

UNIFORM CONSTRUCTION CODE (UCC) – The statewide Building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

UNIFORM PLANNED COMMUNITY ACT – 68 Pa.C.S. § 5101 – 5414, *et seq*.

USE – The specific purpose for which land or a Building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "Permitted Use" or its equivalent shall not be deemed to include any Non-Conforming Use.

USE, PERMITTED – Means any Use allowed by right within a Zoning District, subject to the restrictions applicable to that Zoning District, and that is not a Special Exception Use or a Conditional Use.

USE, PRINCIPAL – The dominant purpose for which a Lot or Building is utilized.

USE, TEMPORARY – Any Use authorized under and in accordance with the provision of this Ordinance which is limited to the time in which such Use may legally continue.

VARIANCE – The permission granted by the Zoning Hearing Board following a Public Hearing that has been properly advertised as required by the Pennsylvania Municipalities Planning Code, as amended, for an adjustment to some regulation which, if strictly adhered to, would result in an unnecessary hardship and where the permission granted would not be contrary to the public interest, and would maintain the spirit and original intent of the Ordinance.

VEHICLE – Every device which is or may be moved or drawn upon a highway, except devices which are infrequently operated or moved upon a highway but are designed primarily for use in construction or agriculture or road maintenance, devices moved by human or animal power, devices used exclusively upon rails or tracks, motorized pedalcycles, and mobility vehicles.

VOLUNTARILY – Means any act(s) done by design or intention, which is proposed, intended, or not accidental. An Act of God is not considered voluntary, but rather is regarded as an act done without the will or choice of the Applicant (or Owner, if different from Applicant). For the purposes of this Ordinance, the destruction of a significant Building or Structure for failure to properly secure it shall be considered voluntary.

WALL MOUNTED (ELECTRIC VEHICLE CHARGING STATION) – An Electric Vehicle Charging Station that is mounted to a wall or any similarly substantial vertical surface.

WATERCOURSE – A channel or conveyance of surface water, such as a stream creek, or run, having a defined bed and banks, whether natural or artificial, with perennial or intermittent flow. For the purposes of the Ordinance, a Watercourse shall not include manmade swales constructed expressly for the purpose of stormwater management.

WATERCOURSE, EPHEMERAL – A stream or portion of a stream that flows only in direct response to precipitation. It receives little or no water from springs and no long-continued supply from melting snow or other sources. Its channel is at all times above the water table. The term may be arbitrarily restricted to streams which do not flow continuously during periods of the month.

WATERCOURSE, INTERMITTENT – A defined channel in which surface water is absent during a portion of the year, as ground water levels drop below the channel bottom.

WATERCOURSE, PERENNIAL - A defined channel containing surface water throughout the year.

WETLANDS – Areas that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. Any area meeting the official wetland definition of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection, as amended, shall be considered a wetland for the purposes of this Ordinance. In the event the definition of wetland accepted by the U.S. Army Corps of Engineers conflicts with the definition of a wetland accepted by the Pennsylvania Department of Environmental Protection, the more restrictive definition shall apply.

WIND ENERGY SYSTEM (WES) – Equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system.

WIND ENERGY SYSTEM, ACCESSORY (AWES) – A Wind Energy System designed as a secondary use on a Lot, wherein the power generated is used primarily for on-site consumption.

WIND ENERGY SYSTEM, PRINCIPAL (PWES) – A Wind Energy System designed as the primary use on a Lot, wherein the power generated is used primarily for off-site consumption.

WINDOW – An opening to the outside other than a door which provides all or part of the required natural light, natural ventilation or both to an interior space. The glazed portion of a door in an exterior wall may be construed to be a window in regard to provision of natural light.

WIRELESS COMMUNICATIONS FACILITY APPLICANT (WCF Applicant) – Any Person that applies for a wireless communication facility Building permit, zoning approval, and/or permission to use the public Right-of-Way (ROW) or other Township-owned land or property.

WIRELESS SUPPORT STRUCTURE – A pole, tower, base station, or other Building, whether or not it has an existing Antenna facility that is used or is to be used for the provision of wireless service (whether on its own or commingled with other types of services).

WOODLANDS – A tree mass or plant community in which tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete, aerial canopy. Any area, grove, or stand of mature or largely mature trees [larger than twelve (12) inches DBH] covering an area of one-quarter (1/4) acre or more or consisting of ten (10) individual trees larger than six (6) inches DBH, shall be considered a woodland. The extent of any woodland plant community or any part thereof shall be measured from the outer-most drip line of all the trees in the plant community.

YARD – An area between the permitted structures and the property lines (see Figure 6.02.7).

YARD, BUFFER – A strip of required yard space adjacent to the boundary of a property or district, not less than the width designated in this Ordinance, and on which is placed (planted) year-round shrubbery, hedges, evergreens or other suitable plantings of sufficient Height and density to constitute an effective screen and give maximum protection and immediate screening to an abutting property or district, and may include a wall, as provided for in this Ordinance.

YARD, EXTERIOR – An open, unoccupied space between a Building and the property boundary or Street line.

YARD, FRONT – An open unoccupied space on the same Lot with a Building, extending the full width of the Lot and situated between the Street line and the Building line projected to the side lines of the Lot. The depth of the front yard shall be measured between the front Building line and the Street Line.

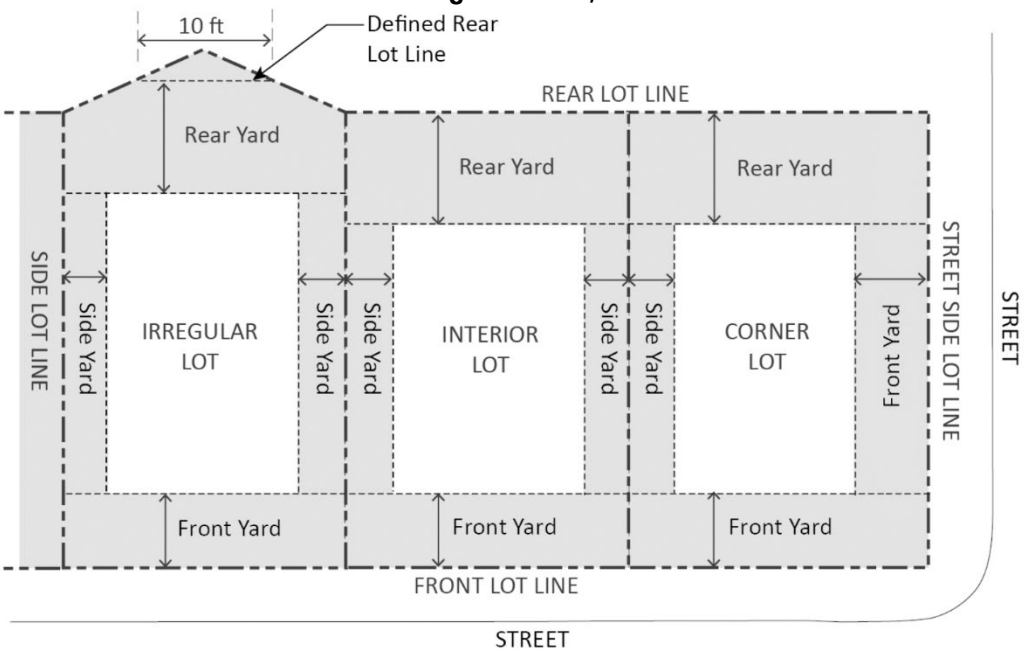
YARD, INTERIOR – An open, unoccupied space between Building Structures, all of which are located on the same Lot.

YARD, REAR – The area contained between the principal Structure and the property line directly opposite the Street of address. For flag Lots, the rear yard shall be that area between the principal Structure and that Lot line which is directly opposite the above described front yard.

YARD, SIDE – The area (s) between a principal Structure and any side Lot line(s). On corner Lots, the side yard shall be considered those areas between the principal Structure and the property lines directly opposite the non-address Street(s). For flag Lots, the side yards shall be the

area between the principal Structure and that one (1) outermost Lot line which forms the flag and pole, plus the area on the opposite side of the principal Structure.

Figure 6.02.7, Yards



YIELD PLAN OR YIELD PLAT – A method of evaluating the maximum possible number of residential dwelling units that can be constructed on a property under the current zoning district regulations.

ZONING DISTRICTS – A portion of the Township or adjacent municipality(s) within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of the Ordinance (or the adjacent municipality's Zoning Ordinance).

ZONING HEARING BOARD – The Zoning Hearing Board of and for Middlesex Township.

ZONING MAP – The Zoning Map of Middlesex Township adopted under the Middlesex Township Zoning Ordinance, together with all amendments thereto subsequently adopted.

ZONING OFFICER – The zoning administrative officer, or his/her authorized representative, including zoning inspector(s), duly appointed by the Township Board of Supervisors.

ZONING ORDINANCE – The officially adopted Middlesex Township Zoning Ordinance with any and all amendments thereto.

APPENDIX A – SMALL WIRELESS COMMUNICATIONS FACILITY DESIGN MANUAL

Middlesex Township
Wireless Facilities Design Manual

Section 1: Purpose and Intent

The purpose of this Wireless Facilities Design Manual is to provide the Township with uniform design and aesthetic standards regarding the placement of Small Wireless Facilities within the Right-of-Way consistent with the Township's obligation to promote the public health, safety, and welfare; to manage the Right-of-Way; and to ensure that the public's use is not obstructed or disturbed by the use of the Right-of-Way for Small Wireless Facilities. The Township recognizes the importance of wireless telecommunications facilities to provide high-quality communications and internet access services to residents and businesses within the Township. The Township also recognizes its obligation to comply with applicable federal and state laws regarding the placement of wireless telecommunications facilities in the Right-of-Way including, without limitation, the Telecommunications Act of 1996, 47 U.S.C. § 151, *et seq.*, and Act 50 of 2021, 53 P.S. §§ 11704.1 – 11704.11.

Section 2: Definitions

The definitions contained in Article 6 of the Middlesex Township Zoning Ordinance are incorporated into this policy by reference as though fully set forth herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural.

Section 3: Aesthetic and Design Requirements for Small Wireless Facilities

The following aesthetic and design requirements shall apply to any person who installs, operates, Modifies, or maintains a Small Wireless Facility in the Right-of-Way:

1. An Applicant and/or Permittee shall use all design techniques possible to minimize the visual impact of a Small Wireless Facility on the public during and after the installation, Modification, or repair of a Small Wireless Facility.
2. Applicants and/or Permittees shall minimize the quantity and size of Accessory Equipment placed on Wireless Support Structures. Long and narrow Accessory Equipment, as opposed to wide and bulky Accessory Equipment, should be used. Accessory Equipment should be clustered together as much as possible and located toward the top of the Wireless Support Structure when possible.
3. No Applicant and/or Permittee shall install or attach flashing lights or unnecessary, distracting, non-essential or poorly placed signage or stickers, unless required by Applicable Codes or agreed upon by the Township, on any Small Wireless Facility, Accessory Equipment, or Wireless Support Structure.
4. No Small Wireless Facility or Accessory Equipment shall have any exposed cables or wiring. All cables and wiring shall be concealed or contained within a Wireless Support Structure unless doing so is not Technically Feasible as determined by the Township's engineer. If the cables and wiring cannot be contained within the Wireless Support Structure, then all cables and wires shall be contained within a conduit that is flush mounted to the Wireless Support Structure. All conduits shall be of a color that matches the Wireless Support Structure to which the Small Wireless Facility is attached and be non-reflective unless otherwise agreed upon by the Permittee and Township.
5. Spools and/or coils of excess wires or cables shall not be stored on a Wireless Support Structure unless they are completely within the approved enclosures or conduits.

6. All cables and wiring shall be installed tautly and without excessive slack or extra cable storage on the Wireless Support Structure. Extra wiring shall not be attached to any Wireless Support Structure.
7. Exterior panel Antennas should not exceed the height of the Wireless Support Structure.
8. Antennas and Accessory Equipment should not extend further than 20 inches from the Wireless Support Structure.
9. Applicants and/or Permittees shall avoid installing Small Wireless Facilities on Wireless Support Structures that are directly in front of dwelling units or businesses. Wireless Support Structures near Street corners, landscaped areas, or in Alleys shall instead be considered for installation first.
10. Small Wireless Facilities and Accessory Equipment shall be painted with graffiti-resistant paint which matches the Wireless Support Structure's color and surroundings.
11. Colors and materials for Small Wireless Facilities, Antennas, and Accessory Equipment shall be chosen to minimize visibility and be compatible with the surrounding environment. Muted colors, earth tones, and subdued hues, such as light green, brown, gray, or light blue, or a color that is more compatible with the surrounding architecture or environment only as approved by the Township shall be used. Small Wireless Facilities, Antennas, and Accessory Equipment shall match the color of the Utility Pole or Municipal Pole that they are attached to if they are attached to such structure.
12. Advertisements are prohibited on a Wireless Support Structure, Accessory Equipment, or Small Wireless Facility. Likewise, all manufacturer decals, logos, and the like shall

be removed or otherwise entirely concealed by the Applicant/Permittee from any Wireless Support Structure, Accessory Equipment, or Small Wireless Facility.

13. If technically feasible, all Accessory Equipment shall be entirely contained or enclosed within a single cabinet which has the smallest physical dimensions possible.
14. Any replacement Wireless Support Structure shall be placed as close as possible to the existing Wireless Support Structure that is being replaced.
15. Any replacement Wireless Support Structure shall substantially conform to the material and design of the existing Wireless Support Structure or to the adjacent Wireless Support Structures located within the contiguous Right-of-Way.
16. The height of any replacement Wireless Support Structure shall not extend more than ten (10) feet above the height of the existing Wireless Support Structure.
17. RESERVED.

Section 4: Updates

This Wireless Facilities Design Manual may be updated from time-to-time by resolution of the Township.

Section 5: Limitations

Nothing contained in this Wireless Facilities Design Manual shall be deemed to restrict or otherwise limit the lawful exercise of the discretion of Township staff in approving and issuing a Permit that deviates from the strict application of these standards where, in the sole and exclusive judgment of the Township, circumstances so warrant.

Section 6: Effective Date

This Wireless Facilities Design Manual shall be effective as of the date of the enactment of this Ordinance.

Prepared by:
Cumberland County GIS
Created: February 2023
Revised: June 2025

Middlesex Township Zoning Map

Carroll Township

Rye Township

North Middleton Township

Silver Spring Township

Carlisle Borough

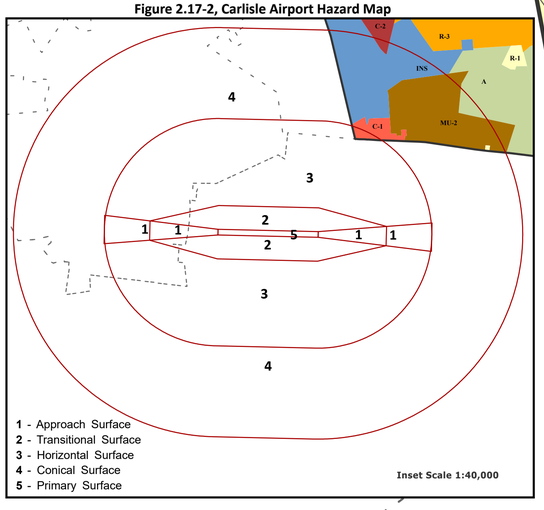
South Middleton Township

Monroe Township

CONICAL SURFACE

HORIZONTAL SURFACE

Figure 2.17-2, Carlisle Airport Hazard Map



Map Scale: 1:13,000

0 0.25 0.5 1 1.5 2 Miles

NOTES

Rules for Interpretation of Zoning District Boundaries – Where uncertainty exists as to the boundaries of zoning districts as shown on this officially enacted Zoning Map, Middlesex Township Zoning Ordinance Section 2.03 Rules for Interpretation of Zoning District Boundaries specified shall apply.

Airport Hazard Overlay District (AHO) – In accordance with Middlesex Township Zoning Ordinance Section 2.17(D), certain zones within the AHO District, are specified under Section 2.17(D), defined in Article 6 of the Zoning Ordinance, and depicted on Figure 2.17.1, Federal Aviation Regulations (FAR), Part 77 Surface Areas, and illustrated on Figure 2.17.2 Carlisle Airport Hazard Area Map under Zoning Ordinance Section 2.17.

Data Center Overlay District – In accordance with Middlesex Township Zoning Ordinance Section 2.18(C), The DCO District shall be an optional overlay district for certain land as depicted on the official Zoning Map.

Floodplain Conservation Overlay District (FCO) – In accordance with Middlesex Township Zoning Ordinance Section 2.19(D), the identification of floodplain areas shall be any areas of Township of Middlesex, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated September 7, 2023, and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study. The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Township of Middlesex and declared to be a part of this Ordinance. The floodplain boundaries shown on this Zoning Map are based on the above-described areas and are the approximate locations.

Redevelopment Opportunity Overlay District (ROO) – In accordance with Middlesex Township Zoning Ordinance Section 2.20(C), the ROO District shall be an optional overlay district for certain land as depicted on the official Middlesex Township Zoning Map.

Riparian Buffer Overlay District (RBO) – In accordance with Middlesex Township Zoning Ordinance Section 2.219(E)3., the boundary of the riparian buffer shall be all those areas located parallel to and a minimum distance of fifty (50) feet from each side of the top of banks of all perennial watercourses within the Township; measured in a direction away from the perennial Watercourse, horizontally on a line parallel to the water surface in the perennial Watercourse, beginning at the top of the defined bank at bankfull flow, with the location of the top of defined bank being reviewed by the Township Engineer and approved by the Board of Supervisors. Where slopes of twenty-five (25) percent or greater are located within the fifty (50) foot riparian buffer area, this buffer area shall extend the entire distance of the steep sloped area. The RBO District shall also include a minimum buffer width of fifty (50) feet around the entire perimeter of the outer edge of wetlands and water bodies greater than 5,000 square feet in area and not located along a stream.

Wellhead Protection Overlay District (WPO) – In accordance with Middlesex Township Zoning Ordinance Section 2.22(D), the WPO District consists of all lands located within the Wellhead Protection Area (WHPA) Zone 1, which is the protective area surrounding the Middlesex Township Municipal Authority Well #1. The protective area is a minimum 400-foot radius measured from the wellhead.

COUNTY DISCLAIMER

This Zoning Map was digitally compiled for internal maintenance and developmental use by the County of Cumberland, Pennsylvania, GIS & Planning Departments to provide an index of parcels for other reference purposes. Parcel lines do not represent actual field surveys of premises. The County makes no claims as to the completeness, accuracy, or content of any data contain hereon, and makes no representation of any kind, including but not limited to, the warranties of merchantability or fitness for a particular use, nor are there any such warranties to be implied or inferred, with respect to the information or data furnished herein.

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Reference

- Tax Parcels
- Streams
- Local Roads
- State Roads
- Interstates
- Municipal Boundary

Zoning Districts

- North Mountain Conservation (NMC)
- Appalachian Trail Corridor (ATC)
- Agriculture (A)
- Low Density Residential (R-1)
- Medium Density Residential (R-2)
- Medium-High Density Residential (R-3)
- High Density Residential (R-4)
- Mixed Use Neighborhood (MU-1)
- Mixed Use Village (MU-2)
- Institutional (INS)
- Commercial Highway (C-1)
- Light Industrial-Commercial (C-2)
- Industrial (I)

Overlay Districts

- Airport Hazard Overlay (AHO)
- Data Center Overlay
- Floodplain Conservation Overlay
- Redevelopment Opportunity Overlay

ENACTED AND ORDAINED this ____ day of _____ 2025

ATTEST

Eileen M. Gault
Township Manager-Sec./Treas.

MIDDLESEX TOWNSHIP BOARD OF SUPERVISORS

Donald S. Geistwhite Jr.
Chairman, Board of Supervisors

This is to certify that the map bearing this legend was adopted as the official Zoning Map of the Township by enactment of the Zoning Ordinance of Middlesex Township, Cumberland County, Pennsylvania under Ordinance No. __-2025."

Letter of Consistency

Monday, August 11, 2025
2:47:35 PM

Organization	Program	Funding	Description
Camp Hill Borough (request submitted by Herbert, R	CFA Multimodal Transportation Fund Program	$370,000.00	Eisenhower Elementary / Lenox Street Pedestrian Safety Improvements - installation of new pedestrian facilities
GMS Funding Solutions, on behalf of South Middleto	CFA DCED Multimodal Transportation Fund	$1,500,000.00	Multimodal improvements at Carlisle Airport including taxiways, hangar and associated aprons/tie down areas, access road.
ECON partners, inc.	DCED Multimodal Transportation Fund (MTF)	$484,848.00	East Pennsboro Township is proposing to construct and upgrade a total of 63 ADA curb ramps throughout 2026 and 2027.
Carlisle Borough	CFA Multimodal Transportation Fund	$1,111,000.00	Carlisle Borough will construct a 10'-wide shared use path on SR 74 to create safe routes to school for CASD students.

Cumberland County Planning Department

July 21, 2025

Pennsylvania Department of Community & Economic Development
Center for Business Financing – Grants Office
Multimodal Transportation Fund
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Re: Camp Hill Borough, Cumberland County
Eisenhower Elementary / Lenox Street Pedestrian Safety Improvements
Multimodal Transportation Fund Program

To Whom It May Concern,

After review by the Cumberland County Planning Commission, we have found the Eisenhower Elementary / Lenox Street Pedestrian Safety Improvements project to be consistent with Cumberland County's comprehensive land use plans.

The project is proposing improvements to pedestrian facilities along Lenox Street, a local street adjacent to Eisenhower Elementary School. The scope of work includes the installation of new pedestrian facilities to connect the existing sidewalk on Lenox Street to the existing sidewalk on 19th Street. This project will install sidewalk in an area where there is no existing sidewalk in the direct vicinity of the nearby elementary school, which is part of a walking school district. Due to the lack of pedestrian infrastructure on Lenox Street, the Borough is currently temporarily closing the street to vehicular traffic to allow for safe pedestrian and bicycle passage. This project will allow Lenox Street to remain open to vehicular traffic while maintaining the safety of students walking and biking to and from school.

This project will address the "Cumberland Principles" of "Expand Transportation Choices" by enabling active and nonmotorized transportation and "Adapt and Stay Safe" by protecting public safety.

If you have any questions regarding this review, please contact me 717.240.5362.

Sincerely,

Kirk Stoner, AICP
Director of Planning

Cumberland County Planning Department

July 22, 2025

Mr. Ryan Emerson, Director
PA Department of Community & Economic Development
Business Financing – Grants Office
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Re: South Middleton Township – Carlisle Airport Multimodal Improvements-Planning Consistency Letter

Dear Mr. Emerson:

The Cumberland County Planning Department is aware that the South Middleton Township (Township) intends to pursue a Commonwealth Financing Authority (CFA) Multimodal Transportation Fund (MTF) grant to offset the cost for the Carlisle Airport Multimodal Improvements (Project), which is contemplated to include construction of taxiways, hangar and associated aprons/tie-down areas, and a potential access road.

We are aware that applications for these funding sources must be accompanied by a letter regarding the relationship between the project and applicable policies and recommendations set forth in regional and county comprehensive planning documents. We offer the following comments to address this requirement:

1. **Cumberland County Comprehensive Plan:** The Cumberland County Comprehensive Plan (2024) identifies expanding transportation options as a priority to improve residents' quality of life. A key concern raised during public input was the limited availability of non-automotive transportation. Point seven of the "Expand Transportation Choices" section (p. 62) highlights Carlisle Airport—Cumberland County's only airport—and expresses the County's support for continued encouragement for business and resident usage of airports serving the region. The Plan specifically emphasizes supporting funding requests for operational and capital improvements.
2. **PennDOT Bureau of Aviation:** According to PennDOT's 2022 study on aviation's economic impact, Carlisle Airport is a key asset for local business growth, generating approximately $3.6 million in annual economic output. The report also highlights air ambulance services and pilot education—both of which Carlisle Airport provides—as critical statewide functions.

Given the above assessments, the Planning Department views the proposed project as fully consistent with the county and regional plans. Accordingly, we are pleased to support the township's pursuit of state grant funding to advance this planning initiative. If we can be of further assistance, please do not hesitate to contact me at kdstoner@cumberlandcountypa.gov.

Sincerely,

Kirk Stoner, AICP, Director of Planning

Cumberland County Planning Department

July 23, 2025

Mr. Ryan Emerson
Director of Grants
PA DCED
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Re: East Pennsboro Township-wide ADA Ramp Upgrades – DCED MTF Application 2025

Dear Mr. Emerson:

East Pennsboro Township intends to submit a Multimodal Transportation Fund (MTF) application to the Department of Community and Economic Development to support their transportation improvements efforts throughout 2026 and 2027.

East Pennsboro Township is proposing to construct and upgrade a total of 63 ADA curb ramps throughout 2026 and 2027. During 2026, there would be a total of 26 ramps constructed at the following locations: Shady Lane (14), ADA Drive (3), Stockwood Street (4), and Delwood Drive (5). The Township is proposing to upgrade the fourteen (14) ADA Ramps along Shady Lane because they do not currently meet ADA requirements due to missing detectable warning surfaces. The Shady Lane ramp upgrades are located immediately adjacent to the East Pennsboro Area High School and travel west to the intersections of Shady Lane and Pine Ridge Circle. During 2027, the township would construct the remaining thirty-seven ramps at the following locations: Wetherburn Road (6), Carol Lane (7), Larch Lane (2), Louis Lane (2), Cavan Crossing (4), Edenderry Way (6), Logans Run (2), Redwood Drive (6), and B Street (2). Through this project, the Township aims to expand and improve its existing pedestrian network, while maintaining and upgrading accessible facilities, specifically, ADA ramps.

Updating curb ramps to be ADA compliant is essential for ensuring safe, equitable access to public infrastructure for all residents and visitors, including individuals with disabilities, older adults, and families with strollers. For a small municipality, these improvements demonstrate a commitment to inclusivity and help create a more connected, accessible pedestrian network.

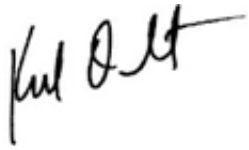
The East Pennsboro Township-wide ADA Ramp Upgrades project aligns with Cumberland County's Comprehensive Plan, adopted December 19, 2024, through the following principles:

1. Expand Transportation Choices
    - Ensuring that curb ramps are ADA compliant provides safe, accessible, and affordable pedestrian access, fulfilling this transportation-focused principle.

2. Plan for People and Places
    - ADA-compliant ramps enhance walkability and support universal design, reinforcing community character and encouraging healthy living.
3. Grow In Not Out
    - Upgrading existing pedestrian infrastructure rather than expanding outward aligns with the "Grow In Not Out" principle, making use of existing public rights-of-way and built environments rather than promoting new development expansion.
4. Adapt and Stay Safe
    - By improving pedestrian safety at intersections and crossings, ADA curb-ramps contribute to resilience and public safety.

Please accept this letter as indication that the proposed East Pennsboro Township-wide ADA Ramp Upgrades project is consistent with the Cumberland County's Comprehensive Plan.

Sincerely,



Kirk Stoner, AICP, Director of Planning



Cumberland County Planning Department

July 29, 2025

Honorable Rick Siger
PA Department of Community & Economic Development
Office of Innovation and Investment – CFA Programs Division
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Re: CFA Multimodal Program Grant Application
Carlisle Route 74 School Zone Shared-Use Path Phase 2
Exhibit 7 – Planning Letter

Dear Secretary Siger,

I am writing to certify that the Carlisle Route 74 School Zone Shared-Use Path Phase 2 Project (Project) is consistent with Cumberland County's comprehensive and land use plans. Carlisle Borough's Project will also further the County's economic development goals.

The Borough of Carlisle is applying for Commonwealth Financing Authority Multimodal Transportation Fund (CFA MTF) funding to support the Carlisle Route 74 School Zone Shared-Use Path Phase 2 which will install two segments of shared-use path. The 10' shared-use path, located along PA Route 74 from Ash Avenue to Cherry Street and from C Street to Bellaire Drive, will provide a safe route for CASD students to walk and bike to the CASD campus on Route 74. In order to construct the path, the Project will narrow the width of the vehicular travel lanes, also serving to calm traffic.

The Project is consistent with the 2024 Cumberland County Comprehensive Plan. Objective 4 in Expand Transportation Choices calls for the County to advance active transportation facilities in new development and retrofits in existing communities. The proposed Project will replace the existing sidewalk along the southwestern side of PA Route 74 with a 10' shared-use path. The path will provide residents with safe active transportation opportunities, particularly for CASD students who walk or bike to school.

Cumberland County has long recognized the importance of community interconnectedness and active transportation enhancements. This Project serves to improve the quality of life of our residents by encouraging healthy activities and providing safer roadways for all.

Should you have any questions regarding this determination, please do not hesitate to contact me.

Thank you for your time and consideration.

Sincerely,

Kirk Stoner, AICP, Director of Planning

Cumberland County Subdivision and Land Development Activity

July 2025

Plan #	Plan Title	Municipality	Status	Type	Purpose
P25-526	Allen MIddle School	Lower Allen Twp	P/F	LD	The project proposes the construction of new building additions, renovation of the existing building, a new bus loop from Little League Drive and an updated parent drop off loop. New stormwater management facilities are proposed to address the increase in runoff.
P25-535	Ralph L. Deitch & Linda K. Deitch	Middlesex Twp	F	S	The purpose of this plan is to subdivide the single-family dwelling, driveway, well, and septic area from Existing Lot 2. The proposed lot will be for residential use. Residual Lot 2 will continue to be used for agricultural purposes. No earth disturbance or improvements are being proposed as part of this plan.
P25-539	David O. Lillich, III & Joan E. Lillich	Dickinson Twp Dickinson Twp	P/F	S	Mr. & Mrs. Lillich are proposing to create a new 11 acre (approx.) residential lot, of which portions will be subdivided from two tax parcels. Tax Parcel 08-11-0292-015 currently has two single-family dwellings on it; both are serviced by their own existing well and on-lot septic system. The subdivision plan will create a new tax parcel for the dwelling on southern part of the property and a lot addition from Tax Parcel 08-11-0292-016 to Tax Parcel 08-11-0292-015.
P25-545	Wesley United Methodist Church	Mechanicsburg Boro	F	S	propose a simple subdivision of one existing parcel into two proposed parcels.
P25-555	Keystone Fieldhouse/Aquatics Center	South Middleton Twp	P/F	S	The plan proposes the subdivision of one tract of land into two parcels to separate the Keystone Fieldhouse (Tract 2) from the Keystone Aquatics Center (Tract 1) for the purpose of creating two separate tax assessment identification numbers.

Plan #	Plan Title	Municipality	Status	Type	Purpose
P25-557	MELVIN DILLER AG OPERATION	West Pennsboro Twp	P/F	LD	THE PROPOSAL IS TO CONSTRUCT A NEW POULTRY OPERATION INCLUSIVE OF TWO POULTRY BARNS (55'X440'), IMPLEMENT SHED (65'X172'), GARAGE (60'X30'), GRAVEL DRIVEWAY, GRAVEL PADS, AND ASSOCIATED STORMWATER MANGEMENT CONTROLS.
P25-587	Wolf & Tiger LLC	Carlisle Boro	F	LD	The purpose of this Land Development Plan is to pave, and to implement SWM facilities for a 8,610 sq.ft. Addition to the Existing Parking Lot to allow for tractor and trailer maneuvering.
P25-593	Troy R. Lehman & Brandon B. Starner	Dickinson Twp	P/F	S	The purpose of this plan is to subdivide an existing 3.865 acre tract to create 2 lot-additions to be consolidated with adjoining lands , also adjoining lands of common ownership
P25-602	Richard G. Mains Jr.	West Pennsboro Twp	F	S	The purpose of this plan is to subdivide Proposed Lot 2A from Existing Lot 1. Proposed Lot 2A will then be conveyed as a lot addition to Existing Lot 2. No construction or earthmoving is being proposed by this plan.
P25-608	4220 & 4277 Enola Road	Upper Frankford Twp	F	S	The purpose of this plan is to subdivide Existing Lot 1 into four (4) lots, including Residual Lot 1. Proposed Lots 2 and 4 will continue to be used for residential and agricultural purposes. Residual Lot 1 and Proposed Lot 3 will continue to be used for agricultural purposes.
P25-610	Threefold Schoolhouse	Upper Allen Twp	P/F	S & LD	Proposed development is subdivision of a residual Tattersall development tract into two proposed lots (subdivision), and on one new lot (#72), a non-public school is proposed (land Development). The proposed private school facility has a maximum capacity of 150 students for grades K through 12. No bus transportation services are proposed for this school, as children are dropped off by private vehicles. The remaining residual land (proposed lot #RES-2R) shall remain vacant until a future subdivision and/or land development is proposed.

Plan #	Plan Title	Municipality	Status	Type	Purpose

Report Total **Plan Count:** 11

Year To Date **Plan Count:** 92

Previous Year To Date **Plan Count:** 89

Cumberland County - MPC Review

July 2025

Review #	Description	Municipality	Review Type	Date Received	Date Reviewed	County Recommendation
M25-29	TO PROVIDE FOR SOLAR FARMS AS A CONDITIONAL USE IN THE LIGHT INDUSTRIAL (I1) ZONING DISTRICT - (this is subject to change to roof tops of warehouses)	Silver Spring Twp	Zoning - Text	7/3/2025	7/25/2025	Approval with comments
M25-30	Adopt an ordinance adopting a new comprehensive Zoning Ordinance and Zoning Map for Middlesex Township	Middlesex Twp	Zoning - Map and Text	7/3/2025		
M25-31	Solar Ordinance.	Hopewell Twp	Zoning - Text	7/15/2025	8/6/2025	Approval with comments

Report Total	3
Year To Date	30
Previous Year To Date	29

PLANNING DEPARTMENT
Cumberland County

Cumberland County Review Report

Cumberland County Planning Department
310 Allen Road, Suite 101
Carlisle, PA 17013
Telephone: (717) 240-5362

Recommendation: *Approval With Comments*

Name of Amendment:				
180 Kost Road – Solar Farms				
Municipality:	*Date Received:*	*Date Reviewed:*	*Reviewed By:*	*Checked By:*
Silver Spring Township	7/3/2025	7/25/2025	SH	KS
Type of Amendment:				
Zoning Text Amendment				

Explanation of Amendment:

Silver Spring Township has submitted a text amendment for review and recommendations. The proposed amendment will permit a solar farm by conditional use in the light industrial (I1) district. The proposed amendment was initiated by an applicant representing 180 Kost Road.

Consistency:

Cumberland County Comprehensive Plan

The 2024 Cumberland County Comprehensive Plan[1] is organized around the Cumberland Principles. These principles guide effective planning practices which benefit the environment, economic development, and the community. The following table determines consistency between the proposed amendment and the Cumberland Principles.

The Cumberland Principles (Comprehensive plan page number)	**Recommendations for Enhanced Consistency**
Protect the Best First (page 20)	• Permitting solar farms in the I1 district will protect sensitive areas that are in agricultural and conservation districts.
Grow In Not Out (page 29)	• The I1 district is in areas that are served, or adjacent to areas that are served by public water and / or public sewer.
Plan for People and Places (page 44)	• Prohibiting solar farms in the agricultural and conservation districts will protect viewsheds and the agricultural character of the area. • Based on the application, the proposed solar farm will be located on the rooftop of an existing warehouse.

[1] https://www.cumberlandcountypa.gov/4888/Comprehensive-Plan

The Cumberland Principles (Comprehensive plan page number)	Recommendations for Enhanced Consistency
Adapt and Stay Safe (page 64)	• Solar farms use clean and renewable resources to create energy. This should reduce the use of fossil fuels that contribute to global warming.

Silver Spring Township Comprehensive Plan

The first objective in the Silver Spring Township Comprehensive Plan is to preserve the rural and suburban character of the township by directing future development towards areas of existing development. One of the strategies includes pursing opportunities to implement infrastructure and protect resources (page 56). The proposed text amendment will permit solar farms in the I1 district by conditional use. The amendment will promote a renewable energy source in a district designated for growth.

Comments and Recommendations:

1. The township should consider reviewing the last sentence in zoning ordinance section 301.5. The sentence indicates that solar energy units are permitted in any zone. The language should be clarified, and a solar energy unit should be defined.

"Section 505 (b) and 609 (g) of the Municipalities Planning Code requires that amendments to municipal ordinances be filed with the county planning agency. If this amendment is approved, please forward a final copy to the county planning office so we may update our records."

Zoning Ordinance and/or Map Amendment Application

No. _____ (Section 803)

Silver Spring Township
8 Flowers Drive
Mechanicsburg, PA 17050
Phone: 717-766-0178
Hours: 8am-4pm, Mon-Fri

PROJECT ADDRESS: 180 Kost Road, Carlisle, PA Zone: Light Industrial (I1)

Nature of Request: Amend the Silver Spring Township Zoning Ordinance to provide for Solar Farms as a Conditional Use in the Light Industrial (I1) zoning district.

GENERAL INFORMATION App Date: 5/30/2025

Owner Name: PA 180 KOST ROAD LLC

Address: 180 Kost Road, Carlisle, PA

E-mail: N/A Phone: N/A

Name of Applicant(s) (if other than owner): Silver Spring Kost CSG 1 LLC

Address: c/o Dimension Energy, 3050 Peachtree Road, Suite 350, Atlanta GA 30305

E-mail: lxing@dimension-energy.com Phone: 732-397-5569

Name of Representative/Consultant: Dean Reynosa, Esquire

Address: 96 S. George St., Suite 520

E-mail: dreynosa@mpl-law.com Phone: 717-845-1524

ADDITIONAL REQUIREMENTS (Include **16 copies** of each of the following)

☐ A written legal description and survey map of any property in question – **See Deed attached as Exhibit A and ALTA Survey attached as Exhibit B.**

☐ A written description of the reasons why the amendment is beneficial to the Township – **See Text Amendment Petition attached as Exhibit C.**

☐ For proposed text amendments, an Ordinance that incorporates the desired changes; and – **See Text Amendment Ordinance attached as Exhibit D.**

☐ A signature page signed by at least one record owner of the property in question, whose signature shall be notarized, attesting to the truth and correctness of all the facts and information submitted by this application – **See notarized signature below.**

☐ For curative amendments, the following additional requirements apply: - **N/A**

- ☐ A written report specifically describing the alleged defects including any supporting legal citations, comparative data, site plans, graphics, aerial photographs, etc.
- ☐ A proposed Ordinance that sures the alleged defects

Zoning Ordinance and/or Map Amendment Application

No. _____ (Section 803)

Silver Spring Township
8 Flowers Drive
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Phone: 717-766-0178
Hours: 8am-4pm, Mon-Fri

- ☐ If applicable, a site plan of sufficient detail and accuracy to demonstrate compliance with the proposed Ordinance and all other applicable provisions of the Zoning Ordinance; and
- ☐ A report describing the proposed use's consistency with each of the findings listed in Section 803 F.1 of the Zoning Ordinance.

FEES

1. The Hearing fee is $ 2,000 Pursuant to Section 802 of the Zoning Ordinance, and
2. The applicant shall be required to pay all public notice and advertising costs as specified in Section 803 of the Zoning Ordinance.

SIGNATURE

I hereby certify that the information submitted in accordance with this application is correct, and I further agree to pay for those costs outlined above.

_____ 5-27-29
Applicant's Signature — Date

STATE OF New York)
) ss.
COUNTY OF New York)

The foregoing instrument was acknowledged before me this 21st day of MAY, 2025, by Sam Younes who acknowledged himself to be person whose name is subscribed as Authorized Person of Silver Spring Kost CSG 1 LLC, and that he as such officer being authorized to do so, executed the within instrument for the purposes therein contained by signing his name as such officer.

JENNIFER O'LOUGHLIN
Notary Public - State of New York
NO. 010 0014317
Qualified in New York County
My Commission Expires Oct 10, 2027

_____
Notary Public

Commented [2]: To LX: Please have SY sign and notarize.

FOR TOWNSHIP USE ONLY

Plan #: _____ Date of Receipt/Filing: _____

☐ Twp Filing Fees Paid ☐ Twp Plan Rev Escrow Paid ☐ Cumberland County Rev Fees Paid

Silver Spring Township
8 Flowers Drive
Mechanicsburg, PA 17050
Phone: 717-766-0178
Hours: 8am-4pm, Mon-Fri

FEES and ESCROWS are to be paid in advance for Subdivision plans via two separate checks.

- Fees payable to: *Silver Spring Township*
- Escrow payable to: *Silver Spring Township Developers Fund*

If the escrow collected in accordance with the current Fee Schedule is insufficient to cover the reasonable/necessary costs to review the plan, Silver Spring Township shall bill the applicant for additional charges. No further permits/approvals shall be granted until all fees, invoices, and escrows have been paid.

SECTION 803 - AMENDMENTS

A. Power of Amendment - The Board of Supervisors may from time to time, amend, supplement, change or repeal this Ordinance including the Official Zoning Map. Any amendment, supplement, change or repeal may be initiated by the Township Planning Commission, the Board of Supervisors or by a petition to the Board of Supervisors by an interested party;

B. Hearing and Enactment Procedures for Zoning Amendments:

1. Public Hearing - Before hearing and enacting Zoning Ordinance and/or Zoning Map amendments, the Board of Supervisors shall conduct a public hearing to inform the general public of the nature of the amendment, and to obtain public comment. Such public hearing shall be conducted after public notice (as defined herein and listed below) has been given.

2. Public Notice - Before conducting a public hearing, the Board of Supervisors shall provide public notice as follows:

   a. Notice shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days, and the second publication shall not be less than seven days from the date of the hearing. Publication of the proposed amendment shall include either the full text thereof or the title and brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

      1) A copy of the full text shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published.

      2) An attested copy of the proposed Ordinance shall be filed in the county law library or other county office designated by the county commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said Ordinances.

   b. For Zoning Map amendments, public notice shall also include the posting of a sign at conspicuous locations along the perimeter of the subject property; these sign(s) shall be

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Mechanicsburg, PA 17050
Phone: 717-766-0178
Hours: 8am-4pm, Mon-Fri

posted at least one week prior to the hearing and will exhibit the nature, date, time and location of the hearing.

c. For curative amendments, public notice shall also indicate that the validity of the Ordinance and/or map is in question and shall give the place where and the times when a copy of the request including any plans, explanatory material or proposed amendments may be examined by the public.

d. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

3. Enactment Notice - In addition to the public notice requirements defined herein, the Board of Supervisors must publish a reference to the time and place of the meeting at which passage of the Ordinance or amendment will be considered, and a reference to a place within the municipality where copies of the proposed Ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. Enactment notice shall be published at least once in one newspaper of general circulation in the municipality not more than sixty (60) days nor less than seven (7) days prior to passage. The published content of the enactment notice shall be the same as that required for public notice described in the preceding subsection B.2.

4. Township Planning Commission Referrals - For amendments proposed by parties other than the Township Planning Commission, the Board of Supervisors shall submit each amendment at least thirty (30) days prior to public hearing to the Township Planning Commission for review and comment. The Township Planning Commission shall submit a report of its review, together with any recommendations, to the Board of Supervisors within forty-five (45) days from the date of said referral. The recommendation of the Township Planning Commission may include a specific statement as to whether or not the proposed amendment is in accordance with the intent of this Ordinance and any officially adopted Comprehensive Plan of the Township.

   The Board of Supervisors cannot act upon the amendment until it has received a recommendation from the Township Planning Commission; however, should the Township Planning Commission fail to submit its recommendation within forty-five (45) days, the Board of Supervisors may proceed without its recommendation.

5. County Planning Commission Referrals - All proposed amendments shall be submitted to the County Planning Commission at least thirty (30) days prior to public hearing on such amendments. The County Planning Commission may submit recommendations to the Board of Supervisors within forty-five (45) days of such referral. The Board of Supervisors cannot act upon the amendment until it has received a recommendation from the County Planning

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Phone: 717-766-0178
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Commission; however, should the County Planning Commission fail to submit its recommendation within forty-five (45) days, the Board of Supervisors may proceed without its recommendation.

6. Adjournment of Public Hearing - If during the public hearing process, the Board of Supervisors needs additional time to understand the proposal, inform the public, receive public comment, and/or render a decision, it may adjourn the public hearing to a specific time and place.

7. Within thirty (30) days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the Cumberland County Planning Commission.

C. Amendments Initiated by the Township Planning Commission - When an amendment, supplement, change or repeal is initiated by the Township Planning Commission, the proposal shall be presented to the Board of Supervisors which shall then proceed in the same manner as with a petition to the Board of Supervisors which has already been reviewed by the Township Planning Commission.

D. Amendment Initiated by the Board of Supervisors - When an amendment, supplement, change or repeal is initiated by the Board of Supervisors, such amendment, supplement, change or repeal shall follow the procedure prescribed for a petition under Section 803.B.

E. Amendment Initiated by a Petition from an Interested Party - A petition for amendment, supplement, change, or repeal for a portion of this Ordinance shall include an accurate legal description and surveyed plan of any land to be rezoned, and all of the reasons supporting the petition to be considered. The petition shall also be signed by at least one record owner of the property in question whose signature shall be notarized attesting to the truth and correctness of all the facts and information presented in the petition. A fee to be established by the Board of Supervisors shall be paid upon the filing of such petition for change and for the purpose of defraying the costs of the proceedings prescribed herein. The Board of Supervisors may require duplicate sets of petition materials. The applicant shall submit the names and addresses of adjoining property owners including properties directly across a public right-of-way.

F. Curative Amendment by a Landowner - A landowner, who desires to challenge on substantive grounds the validity of the Ordinance or the Official Zoning Map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Board of Supervisors (including all of the reasons supporting the request to be considered) with a written request that his challenge and proposed amendment be heard and decided as provided in Sections 609.1. and 916.1. of the Act; as amended. The Board of Supervisors shall commence a hearing thereon within sixty (60) days of the request. The curative amendment shall be referred to the Township and Cumberland County Planning Commissions as provided for in Section 803.B. and public notice of the hearing shall be provided as defined herein.

Silver Spring Township
8 Flowers Drive
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Phone: 717-766-0178
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1. In reviewing the curative amendment, the Board of Supervisors may deny the request, accept the request as submitted, or may adopt an alternative amendment, which will cure the challenged defects. The Board of Supervisors shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:

    a. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.

    b. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or map.

    c. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, floodplains, aquifers, natural resources and other natural features.

    d. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts.

    e. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

2. The Board of Supervisors shall render its decision within forty-five (45) days after the conclusion of the last hearing.

3. If the Board of Supervisors fails to act on the landowner's request within the time limits referred to in paragraph (b), a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.

4. Public notice of the hearing shall include notice that the validity of the Ordinance or Zoning Map is in question and shall give the place where and the times when a copy of the request including any plans, explanatory material or proposed amendments may be examined by the public.

5. The challenge shall be deemed denied when:

    a. The Board of Supervisors fails to commence the hearing within sixty (60) days.

    b. The Board of Supervisors notifies the landowner that it will not adopt the curative amendment.

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c. The Board of Supervisors adopts another curative amendment which is unacceptable to the landowner.

d. The Board of Supervisors fails to act on the request forty-five (45) days after the close of the last hearing on the request unless the time is extended by mutual consent by the landowner and municipality.

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6. Where, after the effective date of the Act, a curative amendment proposal is approved by the grant of a curative amendment application by the Board of Supervisors pursuant to this section or a validity challenge is sustained by the Zoning Hearing Board pursuant to Section 704.A., or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application for subdivision or land development, the developer shall have two years from the date of such approval to file an application for preliminary or tentative approval for a subdivision, land development or planned residential development. Within the two-year period, no subsequent change or amendment in the zoning, subdivision or other governing ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. Upon the filing of the preliminary or tentative plan, the provisions of Section 508 (4) of the Act shall apply.

7. Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any subdivision or land development Ordinance, the developer shall have one year within which to file for a zoning permit. Within the one-year period, no subsequent change or amendment in the zoning, subdivision or other governing Ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge.

   During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.

G. Curative Amendment by the Board of Supervisors.

1. The Board of Supervisors, by formal action, may declare this Ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration and proposal, the Board of Supervisors shall:

   a. By resolution, make specific findings setting forth the declared invalidity of the Ordinance or portions thereof, which may include one OR more of the following:

      1) References to specific uses which are either not permitted or not permitted in sufficient quantity.

      2) References to a class of use or uses which require revision.

      3) References to the entire Ordinance, which requires revisions.

   b. Begin to prepare and consider a curative amendment to the Ordinance to correct the declared invalidity;

Silver Spring Township
8 Flowers Drive
Mechanicsburg, PA 17050
Phone: 717-766-0178
Hours: 8am-4pm, Mon-Fri

2. Within one hundred eighty (180) days from the date of the declaration and proposal, the Board of Supervisors shall enact a curative amendment to validate or reaffirm the validity of this Ordinance pursuant to the provisions required by Section 609 of the Act in order to cure the declared invalidity of the Ordinance.

3. Upon the date of the declaration and proposal, the Board of Supervisors shall not be required to entertain or consider any curative amendment filed by a landowner. Nor shall the Zoning Hearing Board be required to give a report, upon request, for a challenge to the validity of the Ordinance under Section 704.A. subsequent to the declaration and proposal, based upon the grounds identical to or substantially similar to those specified in the resolution required by this Section. Upon the enactment of a curative amendment to, or the reaffirmation of the validity of this Ordinance, no rights to a cure by amendment or challenge shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which the Board of Supervisors propose to prepare a curative amendment.

4. The Board of Supervisors, having utilized the procedures as set forth in this Section, may not again utilize said procedures for a thirty-six (36) month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of the Ordinance; provided however, that if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the Township by virtue of a decision by any Court of competent jurisdiction, the Board of Supervisors may utilize the provisions of this Section to prepare a curative amendment to the Ordinance to fulfill this duty or obligation.

H. Authentication of Official Zoning Map - Whenever there has been a change in the boundary of a zone or a reclassification of the zone adopted in accordance with the above, the change on the Official Zoning Map shall be made, shall be duly certified by the Township Secretary, and shall thereafter be refiled as part of the permanent records of the Township.

CERTIFIED PROPERTY IDENTIFICATION NUMBERS
38-08-0571-002A- SILVER SPRING
38-08-0571-002B- SILVER SPRING
38-08-0571-002C- SILVER SPRING
CCGIS REGISTRY 04/11/2017 BY TB

Prepared by:

Thomas M. Pinney
White and Williams LLP
1650 Market Street, Suite 1800
Philadelphia, PA 19103

Record and return to:

Thomas M. Pinney
White and Williams LLP
1650 Market Street, Suite 1800
Philadelphia, PA 19103

Tax Parcel Nos.: 38-08-0571-002A
38-08-0571-002B
38-08-0571-002C

DEED IN LIEU OF FORECLOSURE

THIS INDENTURE, made as of the ~~31st~~ 29th day of March, 2017 and effective as of the 31st day of March, 2017.

BETWEEN

CBRE, INC., as the court appointed Receiver for the property of Silver Springs Industrial Park, L.P.,

(hereinafter called the Grantor), of the one part, and

PA 180 KOST RD LLC, a Delaware limited liability company

(hereinafter called the Grantee), of the other part,

WITNESSETH, that the said Grantor for and in lieu of foreclosure of that certain Open-End Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing executed by Grantor, in favor of New York Life Insurance Company, dated as of November 30, 2007 and effective December 5, 2007, recorded on December 26, 2007, as Instrument Number 200747255 in the real estate records of Cumberland County, Pennsylvania, as such mortgage was assigned to PA 180 Kost Rd LLC on March 27, 2017, has granted and conveyed, bargained and sold, released and confirmed, and by these presents does grant and convey, bargain and sell, release and confirm unto the said Grantee,

ALL THAT CERTAIN real property which is more particularly described on Exhibit A attached hereto and made a part hereof.

TOGETHER WITH all and singular the buildings and improvements, ways, streets, alleys, passages, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances, whatsoever unto the hereby granted premises belonging, or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said Grantor, as well at law as in equity, of, in and to the same.

TO HAVE AND TO HOLD the said lot or piece of ground above described, with the buildings and improvements thereon erected, hereditaments and premises hereby granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantee, its successors and assigns, to and for the only proper use and behoof of the said Grantee, its successors and assigns, forever.

Notwithstanding the fact that Grantor may be indebted to Grantee or an affiliate of Grantee, or that Grantee or an affiliate of Grantee may have or acquire, directly or indirectly, an interest in one or more liens or encumbrances affecting title to the property conveyed herein, (A) this Indenture is intended as an absolute conveyance rather than as security for any obligation, and Grantor expressly waives any statutory, equitable or other right to redeem any interest in the property conveyed herein, and (B) this Indenture shall not result in the merger of any such lien or encumbrance with the title conveyed hereby, or in the subordination or extinguishment of any such lien or encumbrance in favor of any other lien or encumbrance.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be executed by its duly authorized officer, This Indenture dated the day and year first above written.

GRANTOR:

CBRE, INC., as Receiver for the Property of Silver Springs Industrial Park, L.P.

By: _____

Name: NEIL KURTZ

Title: CBRE, AS COURT APPOINTED RENT RECEIVER, SILVER SPRINGS INDUSTRIAL PARK, LP

State of N.J.

County of Bergen

On this, the 29th day of March, 2017, before me, a Notary Public for the undersigned officer, personally appeared NEIL KURTZ who acknowledged *himself/herself to* be a MANAGING DIRECTOR of CBRE, Inc., as Receiver for the Property of Silver Springs Industrial Park, L.P. and that *he/she* as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of by *himself/herself as* such officer.

In Witness Whereof, I hereunto set my hand and official seal.

Saralyn Jan Arp

Notary Public

My commission expires: 10/29/18

[Notarial Seal]

Saralyn Jan Arp

SARALYN JAN ARP
NOTARY PUBLIC OF NEW JERSEY
I.D. # 2440067
My Commission Expires 10/29/2018

Sworn to and subscribed before me this 29 **day of** March, **20** 17

The precise residence and the complete post office address of the above-named Grantee is:

c/o New York Life Real Estate Investors
51 Madison Avenue
New York, New York 10010-1603
Attn: Senior Director – Asset Management Division

On behalf of the Grantee

Thomas M. Finney

EXHIBIT A
Legal Description
(See attached)

LEGAL DESCRIPTION

PARCEL "A":

BEGINNING at a point, said point being a spike within the Paved Cartway of Kost Road, said point also being on the Southerly R/W line for lands now or formerly of Penn Central Railroad; thence along said R/W line for Penn Central Railroad along a curve to the right having a radius of 11,419.20 feet, and an arc length of 723.69 feet to a point; thence South 0 degrees 52 minutes 31 seconds East, 578.94 feet to a point; thence South 89 degrees 07 minutes 29 seconds West, 90.00 feet to a point; thence along a curve to the left having a radius of 75.00 feet, and an arc length of 117.81 feet to a point; thence South 89 degrees 07 minutes 29 seconds West, 535.03 feet to a point on Westerly property line of Parcel B; thence along said Westerly property line North 3 degrees 18 minutes 00 seconds West, 670.51 feet to a spike, the point and place of beginning.

The above described tract contains 464,295.5464 square feet; 10.6587 acres.

BUT not including in Parcel "A" that portion of said parcel conveyed to Silver Spring Township as recorded in the Cumberland County Recorder of Deeds Office in Deed Book "K", Volume 29, Page 397.

PARCEL "B":

ALL THAT CERTAIN tract of land.

SITUATE in the Township of Silver Spring, County of Cumberland and Commonwealth of Pennsylvania, being more particularly bounded and described according to a Survey by Donald R. LeVan, Registered Surveyor, of LeVan Inc., dated February, 1979, being Project No. 79-10, as follows:

BEGINNING at a point, said point being a spike within the Paved Cartway of Kost Road, said point also being on the Southerly R/W line for lands now or formerly of Penn Central Railroad; thence along said R/W line for Penn Central Railroad along a curve to the right having a radius of 11,419.20 feet, and an arc length of 728.69 feet to the point and place of beginning; thence South 0 degrees 52 minutes 31 seconds East 578.94 feet to a point; thence South 89 degrees 07 minutes 29 seconds West 90.00 feet to a point; thence along a curve to the left having a radius of 75.00 feet, and an arc length of 117.81 feet to a point; thence South 89 degrees 07 minutes 29 seconds West 535.03 feet to a point which is South 89 degrees 18 minutes 00 seconds East 670.51 feet from the spike in the Paved Cartway of Kost Road first above mentioned; thence South 03 degrees 18 minutes 00 seconds East 380.10 feet to a point; thence South 14 degrees 30 minutes 0 seconds East 284.73 feet to an iron pin; thence North 89 degrees 07 minutes 29 seconds East along the Northerly line of property of lands now or formerly of Harry W. Deitch 2,839.79 feet to a post; thence North 12 degrees 51 minutes 37 seconds West 1,050.32 feet along the Westerly line of property of lands now or formerly of Jesse N. Aycock to an iron pin; thence along the Southerly R/W line for Penn Central Railroad the following two courses and distances:

North 79 degrees 16 minutes 40 seconds West 330.30 feet to a point and along a curve to the left having a radius of 11,419.20 feet an arc length of 1,696.73 feet to the point and place of beginning.

BUT not including the following parcel:

BEGINNING at a point, said point being a spike within the Paved Cartway of Kost Road, said point also being on the Southerly R/W line for lands now or formerly of Penn Central Railroad; thence within the Paved Cartway of said Kost Road, the following two courses and distances:

South 03 degrees 18 minutes 00 seconds East 1,050.61 feet to a point and South 14 degrees 30 minutes 00 seconds East 284.73 feet to an iron pin; thence North 89 degrees 07 minutes 29 seconds East 1,690.54 feet along the Northerly line of property of lands now or formerly of Harry W. Deitch to a point; thence North 00 degrees 52 minutes 31 seconds West 780 fe to the point and place of beginning; thence South 89 degrees 07 minutes 29 seconds West 486.00 feet to a point, said point being the edge of a proposed Operations Building; thence North 0 degrees 52 minutes 31 seconds West 206.50 feet to a point, also being edge of proposed Operations Building, then North 89 degrees 07 minutes 29 seconds East 486.00 feet to a point; thence South 0 degrees 52 minutes 31 seconds East 206.50 feet to the poin and the place of beginning.

BUT not including in Parcel B that portion of said parcel conveyed by a deed to Silver Spring Township recorded in the Cumberland County Recorder of Deeds Office in Deed Book "K", Volume 29, Page 397.

PARCEL "C":

ALL THAT CERTAIN tract of land.

SITUATE in the Township of Silver Springs, County of Cumberland and Commonwealth of Pennsylvania, being more particularly bounded and described according to a Survey by Donald R. LeVan, Registered Surveyor, of LeVan, Inc., dated February, 1979, being Project No. 79-10, as follows:

BEGINNING at a point, said point being a spike within the Paved Cartway of Kost Road, said point also being on the Southerly R/W line for lands now or formerly of Penn Central Railroad; thence within the Paved Cartway of said Kost Road, the following two courses and distances:

South 03 degrees 18 minutes 00 seconds East 1,050.61 feet to a point and South 14 degrees 30 minutes 00 seconds East 284.73 feet to an iron pin; thence North 89 degrees 07 minutes 29 seconds East 1,690.54 feet along the Northerly line of property of lands now or formerly of Harry W. Deitch to a point; thence North 00 degrees 52 minutes 31 seconds West 780 fe to the point and place of beginning; thence South 89 degrees 07 minutes 29 seconds West 486.00 feet to a point, said point being the edge of a proposed Operations Building; thence North 0 degrees 52 minutes 31 seconds West 206.50 feet to a point, also being edge of proposed Operations Building, then North 89 degrees 07 minutes 29 seconds East 486.00

feet to a point; thence South 0 degrees 52 minutes 31 seconds East 206.50 feet to the point and the place of beginning.

The above described Parcel contains 100,359.00 square feet, 2.30 acres.

TOGETHER with an easement for ingress, egress and regress, for so long as International Business Machines Corporation (IBM), or any division or subsidiary thereof, or a new entity created out of its assets, shall occupy any of the property conveyed herewith, from the South side of the lands formerly of the Cumberland Valley Railroad and Penn Central Railroad, now of Conrail, to the tract of land lying to the North of the aforesaid railroad, said tract being presently owned by IBM, over a private lane as set forth in a survey attached to a Deed from Eliza A. Martin to Cumberland Valley Railroad, dated December 1, 1905 and recorded in Cumberland County Record Book "W" Volume 6, Page 40.

Being the same premises which Silver Spring Office L.L.C., a Delaware limited liability company, Silver Spring Warehouse, L.L.C., a Delaware limited liability company and Silver Spring Warehouse II, L.L.C., a Delaware limited liability company by Deed dated 9-22-2006 and recorded 10-31-2006 in Cumberland County in Record Book 277 Page 1762 conveyed unto Silver Springs Industrial Park, LP, a Pennsylvania limited partnership, in fee.

EXHIBIT TO DEED IN LIEU OF FORECLOSURE

- **Order Granting Plantiff's Motion for Appointment of Property Receiver**

- **Consent Order Amending Order of November 25, 2015, to Permit the Receiver, CBRE, Inc., to Lease, List for Sale, Market for Sale and Sell the Receivership Property**

- **Consent Judgment in Mortgage Foreclosure**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

NEW YORK LIFE INSURANCE COMPANY Plaintiff, v. 663 EAST CRESCENT AVENUE LLC, a New Jersey limited liability company; and ROXBURY 2002, LLC, a New Jersey limited liability company; and SILVER SPRINGS INDUSTRIAL PARK, L.P., a Pennsylvania limited partnership; and CHESHIRE 2004, LLC, a Connecticut limited liability company; and HPFVI–550 RESEARCH PARKWAY, LLC, a Connecticut limited liability company; and HPFVI-160 CORPORATE CENTER, LLC, a Connecticut limited liability company Defendants.	CIVIL ACTION: NO.: 2:15-CV-07437-CCC-MF

I HEREBY CERTIFY that the above and foregoing is a true and correct copy of the original on file in my office.
ATTEST
WILLIAM T. WALSH, Clerk
United States District Court
District of New Jersey
By: Shea Smile
Deputy Clerk

ORDER GRANTING PLAINTIFF'S MOTION
FOR APPOINTMENT OF PROPERTY RECEIVER

AND NOW this 25 day of November, 2015, upon consideration of the Motion of Plaintiff New York Life Insurance Company ("Plaintiff") for Appointment of Receiver (the "Motion"), and the supporting briefs, affidavits and exhibits thereto, on notice to the Defendants, and the Defendants having consented to the form and entry hereof through their attorneys, Shapiro, Croland, Reiser, Apfel & Di Iorio, LLP (Shapiro Croland) any response thereto, and the

Court having found that: (i) Plaintiff has provided appropriate notice of the Motion to all parties in this action; and (ii) upon the consent of the Defendants:

IT IS ORDERED that the Motion is granted as follows:

1. Effective on the date that is three (3) business days after entry of this Order ("Effective Date"), and subject to the terms and conditions of this Order, CBRE, Inc. ("Receiver") with an office at Park 80 West, Plaza Two, 256 Pelhe Avenue, Suite 600, Saddle Brook, New Jersey 07663, Attention: Neil Kurtz, Managing Director, is appointed as receiver for the following property (collectively, the "Receivership Property"): (a) the real estate located at the locations on Exhibit A, as more fully described in the legal descriptions attached hereto as Exhibit B, together with all Improvements thereon (collectively, the "Mortgaged Premises"); (b) all Rents paid on or subsequent to September 23, 2015, or now due and unpaid or hereafter to become due; and (c) all other Secured Property. Capitalized terms used but not defined in this Order shall have the meanings assigned to them in the Mortgages (as defined in the Motion).

2. On the Effective Date, the Receiver is authorized and directed to take immediate possession and full control of the Receivership Property (subject to the rights and interests of any persons or entities under any Leases including Defendants), to thereafter manage, operate and take such other actions as the Receiver deems reasonable and appropriate to preserve and maintain the Receivership Property, and to collect and receive any and all Rents previously paid, now due and unpaid or hereafter to become due; provided, however, that nothing in this Order shall alter, release or affect Plaintiff's rights, assignments, liens and interests in any Rents paid before or after the Effective Date and any other Receivership Property under the Mortgages, the Rent Assignments (as defined in the Motion) and other documents securing, guaranteeing or relating to the indebtedness secured by the Mortgages (collectively, the "Loan Documents"), all of which shall continue in full force and effect during the receivership.

3. Defendants and their respective partners, members, managers, representatives, servants, contractors, property managers, officers, agents and employees and those acting in concert with or within their control (collectively, "Defendant Group") are hereby (a) ordered to deliver, or to cause to be delivered, forthwith to the Receiver on the Effective Date or as soon thereafter as is reasonably feasible, to the extent within the Defendant Group's possession, custody or control, all of Defendants' property, records and effects (with respect to which records may be copies) in any way pertaining or relating to the Property and its approvals, operation, administration, accounting, construction and maintenance including, without limitation, the documents and things set forth in Exhibit C attached hereto, and (b) restrained until further Order of this Court from collecting or receiving all Rents or from taking any action to interfere with the Receiver in discharging its duties hereby, or with any of the property or things to be delivered to the Receiver pursuant to this Order, except as provided herein. The Receiver shall promptly provide Plaintiff, Defendants and/or their counsel copies of any of the foregoing property, records and effects as requested by Plaintiff or Defendants from time-to-time.

4. On or before the Effective Date, Defendant Group is ordered to surrender and deliver forthwith to the Receiver: (a) all keys and/or combinations to locks and/or security or alarm systems to open or gain access to all parts of the Receivership Property; and (b) all cash or cash equivalents wherever located, including cash or cash equivalents held by any banks or financial institutions received on or after September 23, 2015 from the operation of or income from any Receivership Property, to the extent that the foregoing are now or hereafter in the possession, custody or control of the Defendant Group (or any of them), whether collected or received before or after the date of this Order. Notwithstanding anything in this Order to the

contrary, Plaintiff and Defendants expressly reserve their respective rights with respect to any Rents collected on or before September 23, 2015.

5. The Receiver is empowered to continue the operations of and maintenance of the Receivership Property and exercising all powers reasonable and necessary to facilitate the same, including, without limitation, the rental of all space at the Mortgaged Premises on notice to Defendants and Plaintiff at least five (5) business days in advance of its intent to execute a new Lease and/or the renewal, extension, modification, amendment and/or termination (including a release of any tenant or guarantor), of any existing or new Lease (collectively, "Leasing Transactions") providing copy of same to Defendants and Plaintiff.

6. The Receiver shall have the power to conduct, through its own officers and employees, Defendants' operations at the Receivership Property and the leasing and/or renting of the Receivership Property or any part thereof. In the discharge of its duties hereunder, the Receiver is authorized to employ and/or engage such firms and persons as are deemed reasonably necessary to assist the Receiver in the performance of its duties hereunder including, but not limited to, attorneys, accountants, property managers and sales and/or leasing agents (which may or may not be affiliated with Receiver), maintenance personnel, security personnel, and to pay such firms and persons reasonable compensation for their assistance and/or services; provided, however, that the Receiver will not employ or engage any attorneys or additional property managers or sales and/or leasing agents not otherwise provided in the Receiver Budget (a "Professional Retention") without providing ten days prior written notice to Plaintiff and Defendants. Within thirty (30) days of the Effective Date, the Receiver shall submit to Plaintiff and Defendants a budget that is reasonably acceptable to Plaintiff with respect to the income and operations of the Receivership Property ("Receiver Budget").

7. The Receiver is empowered to immediately notify all insurers to name the Receiver, in its capacity as court-appointed receiver herein, as additional insured and loss payee on any insurance policy covering the Receivership Property, to continue, renew or modify such insurance and pay premiums therefor, to collect any payments on losses and claims covered by such insurance policies and, after ten days written notice to Plaintiff and Defendants and to the extent that no written objection is timely received, to restore or repair the Receivership Property in response to any such loss or claim (a "Property Restoration"). The Receiver shall also have the authority to obtain and pay for property and casualty, general liability, worker's compensation, excess or umbrella and other insurance policies in amounts and with premiums subject to Plaintiff's prior written consent or approval by the Court. All insurance policies covering the Receivership Property shall name Plaintiff as mortgagee, loss payee and/or certificate holder, as applicable, and shall be in compliance with the requirements in the Mortgages and/or Loan Documents.

8. To the extent that any existing or future tenant, licensee or occupant of the Mortgaged Premises (collectively, "Tenants", each a "Tenant") is required under its lease, license or occupancy agreement to provide property and/or liability insurance for the benefit of, and/or naming as additional insured and/or loss payee, Defendants or their predecessors-in-interest ("Required Landlord Insurance"), such Tenants are ordered and directed to provide and deliver to the Receiver, within ten (10) days of the Receiver's written request accompanied by a copy of this Order, the Required Landlord Insurance, together with certificates of insurance evidencing the same, naming the Receiver, Plaintiff and Defendants as additional insureds, loss payees and/or certificate holders, as applicable.

9. The Receiver is empowered, in the exercise of its reasonable judgment consistent with its fiduciary responsibilities, to terminate, settle, renew, amend or modify any and all

agreements and contracts that Defendants entered into or may have with any vendors, suppliers, utilities, contractors, property managers, brokers or other agents or contractors with respect to the Receivership Property (collectively, "Pre-Receivership Agreements Modifications") on ten (10) days notice to Plaintiff and Defendant.

10. The Receiver shall deposit all Rents that are collected or received by Receiver to accounts opened and maintained as set forth in paragraph 13 hereof. All persons or entities with an interest in or under any Leases or such other persons who are in possession of the Mortgaged Premises, in whole or in part, are hereby (a) directed to attorn to the Receiver, until the Receiver is discharged or terminated as provided in this Order, and to pay over to the Receiver all Rents now due and unpaid or hereafter to become due, and (b) enjoined and restrained from paying any Rents to the Defendant Group (or any of them). In addition, all other persons and entities liable for money owing to Defendants arising out of the Receivership Property are hereby enjoined from paying said money to any person or entity except the Receiver or his designated agent, to whom all money is hereby directed to be paid.

11. The Receiver, consistent with its fiduciary responsibilities, is authorized and empowered to use the Rents received or collected by it to pay, in cash or with credit, the following costs and expenses as shall be reasonably incurred in connection with its operation and management of the Receivership Property without the prior written consent of Plaintiff or Defendants (unless any cost and/or expense is unbudgeted and exceeds $5,000.00 or exceeds the Receiver Budget by 5% or more on a line item basis (an "Extraordinary Expense"), in which event the Receiver shall give Plaintiff and Defendants ten (10) days prior written notice of its intent to incur such Extraordinary Expense):

(A) All reasonable current and actual operating expenses incurred in the ordinary course of operating the Receivership Property and in the accomplishment of the powers

herein granted, including without limitation, the costs of electricity, sewage, water, and garbage collection, charges by other utilities, security, full and part-time on site staff, the Receivership Fees (as defined below) and Receiver's out-of-pocket expenses and any other items of expense or costs reasonably necessary to operate the Receivership Property;

(B) All reasonable costs and expenses of repairs, replacements, improvements, alterations and maintenance of the Receivership Property (including without limitation refurbishing and/or making repairs and/or replacements of the HVAC systems, parking areas and sidewalks, roof and other structural parts of and the common areas (including the furniture, fixtures and facilities therein);

(C) Payment of real estate taxes and any other taxes assessed against the Receivership Property to ensure the continued operation of the Receivership Property and to protect the liens of Plaintiff or other secured creditors, if any, in the Receivership Property; and

(D) Payment of insurance premiums for property, hazard, casualty, general liability, worker's compensation, excess or umbrella or other insurance coverage to keep the Receivership Property, and the interests of the Receiver, Plaintiff and Defendants adequately insured.

12. The Receiver is authorized and empowered to take actions and measures and/or to commence, prosecute, defend, settle and compromise all legal proceedings, pending or otherwise, reasonable and necessary for the protection and preservation of the Receivership Property, including without limitation (a) exercising any rights and remedies of Defendants under any Leases, including without limitation instituting actions against person or entities with an interest in or under any Leases or claiming an interest in the Mortgaged Premises for the recovery of all unpaid Rents and other amounts and damages due thereunder and/or possession

of the Mortgaged Premises, in whole or in possession, whether by way of summary proceedings or regular action before a court of competent jurisdiction, and/or (b) appealing or otherwise seeking to reduce the real estate taxes or any other taxes assessed and/or levied upon the Receivership Property, including taking over and/or intervening in any pending tax appeals brought by Defendants; provided, however, Receiver shall not settle any tax appeals without the prior written consent of Plaintiff and Defendants or prior approval of this Court, and may not bring an action, claim or suit against Defendants without further order of the Court.

13. The Receiver shall open and maintain, in its own name in its capacity as court-appointed receiver, deposit accounts at a federally insured bank or financial institution for the purpose of depositing therein all security deposits, Rents and other sums received by Receiver, and to withdraw such funds as are necessary to pay for the reasonable costs and expenses incurred in the operation and maintenance of the Receivership Property in accordance with this Order; provided, however, that (a) all funds in such deposit accounts shall be subject to the terms of this Order and remain subject to the rights and interests of Plaintiff and Defendants to the extent Plaintiff and Defendants held such rights and interests in such funds prior to the entry of this Order, and (b) all security deposits shall be held by the Receiver in a separate account in a federally insured bank or financial institution pursuant to the terms and provisions of any applicable Leases relating thereto. Promptly after written request of Plaintiff, the Receiver shall turn over to Plaintiff the funds (the "Surplus Funds") equal to all Rents and other sums collected or received by Receiver remaining in the Receiver's operating account at the end of any month, less a reserve reasonably necessary to pay the aforesaid costs of operation, maintenance, insurance, leasing costs, repairs or improvements, and real estate and other taxes of the Receivership Property, as agreed upon in writing by the Receiver and Plaintiff from time-to-time, so the Receiver has adequate funds in the Receiver's operating account to comply with the

terms of this Order. Plaintiff shall be obligated to apply any Surplus Funds actually received by Plaintiff on account of the outstanding obligations secured by the Mortgages in accordance with the terms of the Loan Documents and the Mortgages.

14. The Receiver shall be entitled to compensation for its services ("Receivership Fees") in the amount set forth on Exhibit D, such amounts payable in arrears on a monthly basis out of the Rents collected and/or received by the Receiver.

15. The Receiver and/or any other party in this action shall be at liberty to apply to this Court, with prior notice to all other parties, at any time during the pendency of this action for further authority, direction and guidance to assist the Receiver in operating and controlling the Receivership Property, or to amend and/or modify this Order.

16. Neither Plaintiff nor the Receiver shall be liable for any obligation of Defendants relating to the Receivership Property that arose prior to the Effective Date, including, without limitation, any contingent or unliquidated obligations, except to the extent of the cash proceeds of Rent collected prior to the Effective Date that are turned over to the Receiver pursuant to this Order nor shall Plaintiff or the Receiver be obligated to advance any funds to pay any expense of operations or maintenance or other liability relating to the Receivership Property. Notwithstanding the foregoing, should Plaintiff decide, in its sole and absolute discretion, to make any protective advances under the Mortgages and/or Loan Documents to operate, maintain and to make repairs and/or replacements in order maintain and/or preserve the Receivership Property (including without limitation any real estate taxes, insurance premiums and/or the Receiver Fees), all such protective advances (a) shall be added to the indebtedness under and secured by the Mortgages and other Loan Documents, with interest thereon, and (b) shall be added to any judgment entered in this action and shall be payable thereunder. In addition, Plaintiff may, in its sole and absolute discretion, turn over to the Receiver any Rents held by

Plaintiff prior to the entry of this Order for the foregoing purposes; provided, however, such Rents shall remain subject to Plaintiff's rights and interests under the Mortgages, the Rent Assignments and the other Loan Documents.

17. The Receiver shall have no liability to any person or entity for any claims, actions or causes of action arising out of or relating to events or circumstances occurring prior to the appointment of the Receiver. This protection of the Receiver from liability shall include, but not be limited to, any liability from the performance of services rendered by third parties on behalf of Defendants, and any liability to which any Defendant is currently or may ultimately be exposed under any applicable laws pertaining to the ownership and use of the Receivership Property, including without limitation any Environmental Laws.

18. Following the Receiver's appointment, neither the Receiver nor Plaintiff shall be deemed in any way to be an owner or mortgagee-in-possession of the Receivership Property. If the Receiver shall have acted in accordance with the terms and conditions of this Order, neither the Receiver, nor any of its employees, agents, attorneys, partners, members, officers or directors, shall have any personal liability as to any claim, actions or causes of action of any third parties who have or would have claims against any Defendant or any officer, director, employee, member, manager or partner thereof, including, without limitation, any claims under any Environmental Laws; provided, however, the Receiver shall be liable for actions taken by the Receiver that are not authorized by the terms of this Order, any other Order of this Court and/or the Receiver's own intentional or willful misconduct.

19. The Receiver shall file with the Court and serve upon counsel for all parties in this action, on a monthly basis commencing within forty-five (45) days of the date of this Order and by the fifteenth day of each month thereafter, written reports setting forth, among other things, bank statements of the deposit accounts for all moneys held by the Receiver, a current

rent roll, and income and expense statements reflecting on a cash basis the gross income from the operation of the Receivership Property and the expenditures made by the Receiver in connection with its duties and obligations hereunder during the prior month (compared against the Receiver Budget for the period in question). The Receiver shall promptly respond to reasonable requests by any party to this action for information regarding the status and operation of the Receivership Property and for the inspection of the Receivership Property by Plaintiff or Defendants and their respective contractors, agents and consultants.

20. The Receiver shall have no rights or powers other than as expressly set forth in this Order and shall have no right to commence any action against Plaintiff or any of its respective officers, directors, shareholders, employees, attorneys, partners or affiliates, except to enforce the terms and conditions of this Order. Nothing in this Order shall alter, release, diminish or impair any rights, liens, security interests, assignments, pledges and/or remedies of Plaintiff under the Loan Documents.

21. To the extent that no objection to any proposed Leasing Transaction (Paragraph 5), Professional Retention (Paragraph 6), Property, Restoration (Paragraph 7), Extraordinary Expense (Paragraph 10), or Pre-Receivership Modifications (Paragraph 9), is filed by Plaintiff or Defendants with this Court, with copies served on the other parties simultaneously therewith, within the ten (10) day notice period (collectively, the "Notice Transactions"), such transaction shall be deemed approved by Plaintiff and Defendants and the Receiver may consummate such transaction; otherwise upon the giving of such notice of objection, such Notice Transactions shall be stayed pending entry of an order of this court with respect thereto. Notices issued pursuant to this order shall be sent:

If to Plaintiff:

To: White and Williams, LLP
One Liberty Place, Suite 1100
Philadelphia, PA 19103
Attn: Thomas Pinney, Esq.
Email: PinneyT@WhiteandWilliams.com

If to Defendants:

To: Shapiro, Croland, Reiser, Apfel & DiIorio, LLP
411 Hackensack Avenue
Hackensack, NJ 07601
Attn: Robert P. Shapiro, Esq.
Alexander G. Benisatto, Esq.
Email: Rshapiro@Shapiro-Croland.com
Abenisatto@Shapiro-Croland.com

If to Receiver:

To: CBRE
Park 80 West, Plaza Two
256 Pehle Ave, Suite 600
Saddle Brook, NJ 07663
Attn: Neil Kurtz, Managing Director
E-Mail: Nkurtz@CBRE.com

by hand delivery or certified or registered mail, RRR and by electronic mail to the addresses set forth in this paragraph.

22. The terms and conditions of this Order shall be effective and enforceable upon its entry on the docket in this action. The Court shall retain jurisdiction over all matters pertaining to or arising out of this Order, before and after the entry of any judgment entered in this action.

23. The Receiver shall serve as receiver for the Receivership Property commencing on the Effective Date and continuing, notwithstanding the entry of any judgment in this action, until the earliest to occur of: (a) a conveyance of Defendants' interest in all or substantially all of the Receivership Property by (i) a judicial sale or receiver sale thereof, or (ii) a conveyance thereof, whether by deed in lieu of foreclosure or otherwise, approved in writing by the Plaintiff; (b) on the date selected by Plaintiff in its notice of termination of receivership, which date shall

be at least ten (10) days after the date such notice is given to the Receiver (with a copy to Defendants or their counsel of record) and filed in this action; or (c) the entry of an order of this Court discharging, terminating or replacing the Receiver following notice to all parties hereto and a hearing. Within forty-five (45) days after the discharge, termination or replacement of the Receiver, (x) the Receiver shall wind down and pay all outstanding costs and expenses of the receivership, (y) turn over to the party entitled thereto all funds remaining in the Receiver's possession, custody or control to pay all outstanding obligations owed and/or secured by the Mortgages, the other Loan Documents and any judgment entered in favor of Plaintiff in this action, and (z) file its final report and accounting with the Court.

24. A conformed executed copy of this Order shall be served by Plaintiff's attorney upon the Receiver, each Defendant (or their counsel of record) and, to the best of Plaintiff's knowledge, any parties holding liens in or against the Property, in whole or in part.

BY THE COURT:

Hon. Claire C. Cecchi U.S.D.J.

EXHIBIT A

LIST OF MORTGAGED PREMISES

663 East Crescent Avenue, Ramsey, New Jersey

1881 Route 46 West, Ledgewood, New Jersey

180 Kost Road, Carlisle, Pennsylvania

550 Research Parkway, Meriden, Connecticut

160 Corporate Avenue, Meriden, Connecticut

611-617 W. Johnson Avenue, Cheshire, Connecticut

EXHIBIT B

LEGAL DESCRIPTIONS

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE TOWNSHIP OF ROXBURY, COUNTY OF MORRIS, AND STATE OF NEW JERSEY, AND IS DESCRIBED AS FOLLOWS:

Beginning at a point in the northerly line of a 50 foot wide right of way known as North Frontage Road, said point being located at a point of tangency in said right of way line, distant 25.00 feet left from pt. station 31+13.07 as shown on plans entitled "New Jersey State Highway Department, general property parcel map, FAI80-2(14), Route 46 to east side of Landing Road", dated November 1958; running thence along said right of way line in a westerly direction

1. along a curve bearing to the right, having a radius of 5,800.00 feet, a central angle of 02 degrees 12 minutes 28 seconds a chord bearing South 71 degrees 18 minutes 41 seconds West and a distance of 223.48, an arc distance of 223.49 feet to a point; thence leaving said northerly sideline and along now or formerly of William Karlson the following two courses

2. on a course North 47 degrees 44 minutes 02 seconds West a distance of 46.78 feet to a point; thence

3. on a course South 36 degrees 45 minutes 58 seconds West a distance of 68.48 feet to a point in the northerly right of way line of North Frontage Road; thence along right of way line

4. along a curve bearing to the right, having a radius of 5,800.00 feet a central angle of 02 degrees 18 minutes 15 seconds, a chord bearing of South 74 degrees 20 minutes 57 seconds West and distance of 233.23 feet, an arc distance of 233.25 feet to a point of compound curvature leading onto the northeasterly sideline of New Jersey State Highway Route 46; thence along said northeasterly sideline the following nine courses

5. along a curve bearing to the right, having a radius of 290.00 feet, a central angle of 22 degrees 28 minutes 20 seconds, a chord bearing of south 86 degrees 44 minutes 15 seconds West and distance of 113.01 feet, an arc distance of 113.74 feet to a point; thence

6. on a course North 66 degrees 17 minutes 21 seconds West a distance of 188.09 feet to a point; thence

7. on a course North 57 degrees 39 minutes 29 seconds West a distance of 120.00 feet to a point; thence

8. on a course North 54 degrees 35 minutes 45 seconds West a distance of 243.35 feet to a point; thence

9. on a course North 55 degrees 54 minutes 47 seconds West a distance of 57.45 feet to a point; thence

10. on a course North 62 degrees 23 minutes 56 seconds West a distance of 68.22 feet to a point; thence

11. on a course North 67 degrees 44 minutes 25 seconds West a distance of 41.70 feet to a point; thence

12. on a course North 74 degrees 26 minutes 39 seconds West a distance of 8.35 feet to a point; thence

13. along a curve bearing to the left, having a radius of 979.03 feet, a central angle of 10 degrees 37 minutes 37 seconds, a chord bearing of North 68 degrees 09 minutes 12 seconds West and distance of 181.32 feet, an arc distance of 181.58 feet to a point; thence leaving said northeasterly line and along the lines of tax lot 24 in block 21 the following 4 courses

14. on a course of North 19 degrees 20 minutes 54 seconds East a distance of 274.72 feet to a point; thence

15. on a course North 55 degrees 49 minutes 06 seconds West a distance of 100.00 feet to a point; thence

16. on a course North 19 degrees 01 minutes 06 seconds West a distance of 85.24 feet to a point; thence

17. on a course South 19 degrees 20 minutes 54 seconds West a distance of 378.50 feet to a point in the northeasterly sideline of New Jersey State Highway Route 46; thence along said northeasterly sideline the following two courses

18. on a course North 75 degrees 08 minutes 59 seconds West a distance of 292.71 feet to a point; thence

19. along a curve bearing to the left, having a radius of 7,686.49 feet, a central angle of 00 degrees 49 minutes 38 seconds, a chord bearing of North 75 degrees 33 minutes 49 seconds West and distance of 110.99 feet, an arc distance of 110.99 feet to a point; thence leaving said sideline and along the line of lands now or formerly of Di Bernardo the following three courses

20. on a course North 08 degrees 28 minutes 25 seconds East a distance of 249.40 feet to a point; thence

21. on a course North 02 degrees 21 minutes 13 seconds West a distance of 665.42 feet to an iron pipe; thence

22. on a course North 04 degrees 55 minutes 25 seconds West a distance of 225.00 feet to a point; thence running along the line of lands now or formerly of Roxbury Junction Development Corp., the following three courses

23. on a course North 85 degrees 15 minutes 16 seconds East a distance of 1,391.37 feet to a point; thence

24. on a course South 24 degrees 30 minutes 31 seconds West a distance of 28.80 feet to an iron pipe; thence along lines of the first tract in said deed book 2705 page 690 the following two courses

25. on a course North 81 degrees 50 minutes 04 seconds East, partially along said line of Roxbury Junction Development Corp. and partially along the line of lands now or formerly of Kikia Associates, L.P., a distance of 612.62 feet to an "x" cut on a set stone in a stone row, being designated as a property corner in a certain boundary line agreement made between samsung international, inc., Kikia Associates, L.P. and Roxbury Junction Development Corporation, recorded in Morris County deed book 3528 page 149; running thence along the dividing line between lands of Samsung International, Inc. and Kikia set forth in said boundary line agreement

26. on a course South 05 degrees 51 minutes 45 seconds East a distance of 1,525.81 feet to a point; thence still along lands now or formerly of Kikia Associates, L.P.

27. on a course North 77 degrees 37 minutes 12 seconds East a distance of 630.77 feet to a point; thence still along said line

28. on a course South 06 degrees 18 minutes 06 seconds East a distance of 50.99 feet to the point in the aforementioned northerly right of way line of north frontage road; thence

29. on a course South 70 degrees 12 minutes 27 seconds West a distance of 843.62 feet to the point and place of Beginning.

Excepting therefrom all that certain tract, parcel and lot of land described in a certain deed of dedication dated October 25, 2006 and made by Roxbury 2002, LLC to State of New Jersey and recorded November 21, 2007 in Deed Book 20964, page 1008.

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, AND IS DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN TRACT, PARCEL AND LOT OF LAND LYING AND BEING SITUATE IN THE BOROUGH OF RAMSEY AND THE BOROUGH OF UPPER SADDLE RIVER, COUNTY OF BERGEN, STATE OF NEW JERSEY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE EXISTING WESTERLY RIGHT-OF-WAY LINE OF EAST CRESCENT AVENUE WITH THE DIVISION LINE BETWEEN LOTS 19 IN BLOCK 4001 AND LOT 2 IN BLOCK 4401 SAID POINT BEING DISTANT 657.99 FEET NORTH OF THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE PRODUCED OF EAST CRESCENT AVENUE WITH THE NORTHERLY RIGHT-OF-WAY LINE PRODUCED OF ARROW ROAD, ALL AS SHOWN ON THE CURRENT TAX ASSESSMENT MAP OF THE BOROUGH OF RAMSEY, BERGEN COUNTY, NEW JERSEY RUNNING; THENCE

1. ALONG SAID DIVISION LINE BETWEEN LOT 19 IN BLOCK 4001 AND LOT 2 IN BLOCK 4401 NORTH 57 DEGREES 40 MINUTES 46 SECONDS WEST, 857.43 FEET TO A POINT ON THE DIVISION LINE BETWEEN LOTS 18 AND 19 IN BLOCK 4001; THENCE

2. ALONG THE SAME NORTH 24 DEGREES 07 MINUTES 23 SECONDS EAST, 309.74 FEET TO A POINT ON THE DIVISION LINE BETWEEN LOTS 16 AND 19 IN BLOCK 4001; THENCE

3. ALONG SAME NORTH 41 DEGREES 21 MINUTES 37 SECONDS EAST, 338.25 FEET TO A POINT IN THE DIVISION LINE BETWEEN LOTS 19 AND 22 IN BLOCK 4001; THENCE

4. ALONG SAME SOUTH 58 DEGREES 08 MINUTES 23 SECONDS EAST, 495.42 FEET TO A POINT; THENCE

5. SOUTH 61 DEGREES 11 MINUTES 21 SECONDS EAST, 235.83 FEET TO A POINT ON THE EXISTING WESTERLY RIGHT-OF-WAY LINE OF EAST CRESCENT AVENUE; THENCE

6. ALONG SAME SOUTH 31 DEGREES 14 MINUTES 57 SECONDS WEST, 364.83 FEET TO A POINT OF CURVATURE; THENCE

7. STILL ALONG SAME, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 260.23 FEET, LENGTH 109.01 FEET TO A POINT OF TANGENCY; THENCE

8. STILL ALONG THE SAME SOUTH 7 DEGREES 14 MINUTES 57 SECONDS WEST, 163.10 FEET TO A POINT OF CURVATURE; THENCE

9. STILL ALONG SAME ON A CURVE TO THE RIGHT HAVING A RADIUS OF 552.31 FEET, LENGTH OF 44.60 FEET TO THE POINT OR PLACE OF BEGINNING

LEGAL DESCRIPTION

PARCEL "A":

BEGINNING at a point, said point being a spike within the Paved Cartway of Kost Road, said point also being on the Southerly R/W line for lands now or formerly of Penn Central Railroad; thence along said R/W line for Penn Central Railroad along a curve to the right having a radius of 11,419.20 feet, and an arc length of 723.69 feet to a point; thence South 0 degrees 52 minutes 31 seconds East, 578.94 feet to a point; thence South 89 degrees 07 minutes 29 seconds West, 90.00 feet to a point; thence along a curve to the left having a radius of 75.00 feet, and an arc length of 117.81 feet to a point; thence South 89 degrees 07 minutes 29 seconds West, 535.03 feet to a point on Westerly property line of Parcel B; thence along said Westerly property line North 3 degrees 18 minutes 00 seconds West, 670.51 feet to a spike, the point and place of beginning.

The above described tract contains 464,295.5464 square feet, 10.6587 acres.

BUT not including in Parcel "A" that portion of said parcel conveyed to Silver Spring Township as recorded in the Cumberland County Recorder of Deeds Office in Deed Book "K", Volume 29, Page 397.

PARCEL "B":

ALL THAT CERTAIN tract of land.

SITUATE in the Township of Silver Spring, County of Cumberland and Commonwealth of Pennsylvania, being more particularly bounded and described according to a Survey by Donald R. LeVan, Registered Surveyor, of LeVan Inc., dated February, 1979, being Project No. 79-10, as follows:

BEGINNING at a point, said point being & spike within the Paved Cartway of Kost Road, said point also being on the Southerly R/W line for lands now or formerly of Penn Central Railroad; thence along said R/W line for Penn Central Railroad along a curve to the right having a radius of 11,419.20 feet, and an arc length of 728.69 feet to the point and place of beginning; thence South 0 degrees 52 minutes 31 seconds East 578.94 feet to a point; thence South 89 degrees 07 minutes 29 seconds West 90.00 feet to a point; thence along a curve to the left having a radius of 75.00 feet, and an arc length of 117.81 feet to a point; thence South 89 degrees 07 minutes 29 seconds West 535.03 feet to a point which is South 03 degrees 18 minutes 00 seconds East 670.51 feet from the spike in the Paved Cartway of Kost Road first above mentioned; thence South 03 degrees 18 minutes 00 seconds East 380.10 feet to a point; thence South 14 degrees 30 minutes 0 seconds East 284.73 feet to an iron pin; thence North 89 degrees 07 minutes 29 seconds East along the Northerly line of property of lands now or formerly of Harry W. Deitch 2,839.79 feet to a post; thence North 12 degrees 51 minutes 37 seconds West 1,050.32 feet along the Westerly line of property of lands now or formerly of Jesse N. Aycock to an iron pin; thence along the Southerly R/W line for Penn Central Railroad the following two courses and distances:

North 79 degrees 16 minutes 40 seconds West 330.30 feet to a point and along a curve to the left having a radius of 11,419.20 feet an arc length of 1,696.73 feet to the point and place of beginning.

BUT not including the following parcel:

BEGINNING at a point, said point being a spike within the Paved Cartway of Kost Road, said point also being on the Southerly R/W line for lands now or formerly of Penn Central Railroad; thence within the Paved Cartway of said Kost Road, the following two courses and distances:

South 03 degrees 18 minutes 00 seconds East 1,050.61 feet to a point and South 14 degre 30 minutes 00 seconds East 284.73 feet to an iron pin; thence North 89 degrees 07 minute 29 seconds East 1,690.54 feet along the Northerly line of property of lands now or formerly of Harry W. Deitch to a point; thence North 00 degrees 52 minutes 31 seconds West 780 fe to the point and place of beginning; thence South 89 degrees 07 minutes 29 seconds West 486.00 feet to a point, said point being the edge of a proposed Operations Building; thence North 0 degrees 52 minutes 31 seconds West 206.50 feet to a point, also being edge of proposed Operations Building, then North 89 degrees 07 minutes 29 seconds East 486.00 feet to a point; thence South 0 degrees 52 minutes 31 seconds East 206.50 feet to the poin and the place of beginning.

BUT not including in Parcel B that portion of said parcel conveyed by a deed to Silver Spring Township recorded in the Cumberland County Recorder of Deeds Office in Deed Book "K", Volume 29, Page 397.

PARCEL "C":

ALL THAT CERTAIN tract of land.

SITUATE in the Township of Silver Springs, County of Cumberland and Commonwealth of Pennsylvania, being more particularly bounded and described according to a Survey by Donald R. LeVan, Registered Surveyor, of LeVan, Inc., dated February, 1979, being Project No. 79-10, as follows:

BEGINNING at a point, said point being a spike within the Paved Cartway of Kost Road, saic point also being on the Southerly R/W line for lands now or formerly of Perm Central Railroad; thence within the Paved Cartway of said Kost Road, the following two courses and distances:

South 03 degrees 18 minutes 00 seconds East 1,050.61 feet to a point and South 14 degre 30 minutes 00 seconds East 284.73 feet to an iron pin; thence North 89 degrees 07 minute 29 seconds East 1,690.54 feet along the Northerly line of property of lands now or formerly of Harry W. Deitch to a point; thence North 00 degrees 52 minutes 31 seconds West 780 fe to the point and place of beginning; thence South 89 degrees 07 minutes 29 seconds West 486.00 feet to a point, said point being the edge of a proposed Operations Building; thence North 0 degrees 52 minutes 31 seconds West 206.50 feet to a point, also being edge of proposed Operations Building, then North 89 degrees 07 minutes 29 seconds East 486.00

feet to a point; thence South 0 degrees 52 minutes 31 seconds East 206.50 feet to the point and the place of beginning.

The above described Parcel contains 100,359.00 square feet, 2.30 acres.

TOGETHER with an easement for ingress, egress and regress, for so long as International Business Machines Corporation (IBM), or any division or subsidiary thereof, or a new entity created out of its assets, shall occupy any of the property conveyed herewith, from the South side of the lands formerly of the Cumberland Valley Railroad and Penn Central Railroad, now of Conrail, to the tract of land lying to the North of the aforesaid railroad, said tract being presently owned by IBM, over a private lane as set forth in a survey attached to a Deed from Eliza A. Martin to Cumberland Valley Railroad, dated December 1, 1905 and recorded in Cumberland County Record Book "W" Volume 6, Page 40.

Being the same premises which Silver Spring Office L.L.C., a Delaware limited liability company, Silver Spring Warehouse, L.L.C., a Delaware limited liability company and Silver Spring Warehouse II, L.L.C., a Delaware limited liability company by Deed dated 9-22-2006 and recorded 10-31-2006 in Cumberland County in Record Book 277 Page 1762 conveyed unto Silver Springs Industrial Park, LP, a Pennsylvania limited partnership, in fee.

LEGAL DESCRIPTION

A certain piece or parcel of land with all buildings and improvements thereon, situated in the City of Meriden, County of New Haven, and State of Connecticut on the easterly side of Research Parkway known as 550 Research Parkway and designated as Lot #6 on a map entitled "Meriden Trading Company; 550 Research Parkway, Meriden, Connecticut, Date: 1/22/87, Scale: 1"= 100"' on file in the Meriden Town Clerk's Office as Map #4730, bounded and described as follows:

Beginning at a point of the easterly line of Research Parkway, which point is marked by a pin at the southwesterly corner of property now or formerly of Cuno, Inc.;

THENCE, running S 64° 28' 18" E 172.20 feet along said Cuno, Inc., property an iron pin found;

THENCE, running S 81° 21' 32" E 1025.19 feet along said Cuno, Inc. to a point;

THENCE, running S 12° 24' 17" W 159.73 feet to a point;

THENCE, running N 81° 21' 03" W 214.17 feet to a point;

THENCE, running S 08° 43' 49" W 870.66 feet to a point on the northerly line of Corporate Court as shown on said map;

THENCE, running N 81° 21' 33" W 977.46 feet along the northerly line of Corporate Court to a point marking the point of curvature of the curve connecting the northerly line of Corporate Court with the easterly line of Research Parkway;

THENCE, running westerly, northwesterly and northerly along the curve connecting the northerly line to Corporate Court with the easterly line of Research Parkway with a radius of 20.00 feet a distance of 28.61 feet to a point;

THENCE, running N 00° 36' 40" E 226.19 feet along the easterly line of said Research Parkway to a point;

THENCE, running northeasterly 848.05 feet on a curve to the right, having a radius of 1950.00 feet, along said easterly line of said Research Parkway to the point and place of beginning.

LEGAL DESCRIPTION

A certain piece or parcel of land with all buildings and improvements thereon, situated in the City of Meriden, County of New Haven, and State of Connecticut on the easterly side of Research Parkway known as 160 Corporate Court and designated as Lot #10 on a map entitled "Meriden Trading Company, 550 Research Parkway, Meriden, Connecticut, Date: 1/22/87, Scale: 1" = 100'" on file in the Meriden Town Clerk's Office as Map #4730, bounded and described as follows:

Beginning at a point at the northeasterly corner of the parcel, which point is bound easterly by land now or formerly of Margaret K. Nellis and bounded northerly by land now or formerly of Cuno, Inc., which point is marked by a concrete monument;

THENCE, running South 00° 52' 55" East 275.82 feet along said Margaret K. Nellis property to a point;

THENCE, running North 88° 55' 2" East 24.88 feet along said Margaret K. Nellis land to a bronze disk;

THENCE, running South 01° 55' 43" East 725.49 feet along the westerly line of property now or formerly of George F. Kuchle to a point;

THENCE, running South 81° 21' 29" East 342.91 feet along said land of George P. Kuchle to a point;

THENCE, running South 18° 35' 33" West 32.95 feet along the westerly line of Thorpe Avenue to a point;

THENCE, running southerly, southwesterly and westerly along the curve to the right connecting the westerly line of Thorpe Avenue with the northerly line of Corporate Court, with a radius of 20.00 feet a distance of 27.94 feet to a point;

THENCE, running North 81° 21' 33" West 1571.52 feet along the northerly line of Corporate Court to a point;

THENCE, running North 8° 43' 49" East 870.66 feet to a point;

THENCE, running South 81° 21' 3" East 214.17 feet to a point;

THENCE, running North 12° 24' 17" East 159.73 feet to a point;

THENCE, running South 81° 21' 32" East 824.76 feet along the southerly line of said Cuno, Inc. property to the point of beginning.

Together with and subject to the right to drain surface water over the southerly portion of the property contained in a Warranty Deed from Meriden Trading Company to 160 Corporate Court, Inc. dated April 29, 1988 and recorded May 3, 1988 in Volume 1529 at Page 59 of the Meriden Land Records.

LEGAL DESCRIPTION

All that certain piece or parcel of land with all the improvements thereon and appurtenances thereto situated in Cheshire, Connecticut located on the southerly side of West Johnson Avenue shown as Parcel B on a map entitled "MAP PREPARED FOR LEONARD PAOLELLA WEST JOHNSON AVE CHESHIRE, CONNECTICUT", which map is dated June 14, 1988, Scale 1" - 80' prepared by Design Development Group Inc. Consulting Engineers - Land Surveyors East Main Street, Meriden, Connecticut; and declared to be in accordance with the standards of class A-2 of the Code of Practice of Standards of Accuracy of Surveys & Maps by Robert J. Amantes, LS #9345, Registered Land Surveyor, which map is on file in the Cheshire Land Records, as map number 2707; this parcel is more particularly bounded and described as follows:

Commencing at a point marked by a monument in the Southerly street line of West Johnson Avenue which point is the northwesterly corner of the within described parcel;

Thence proceeding along the Southerly street line of West Johnson Avenue 91.51 feet as shown on said map;

Thence proceeding S 26° 44' 40" W 650 feet along land shown as Parcel A on said map and now or formerly of Webster Bank;

Thence proceeding S 60° 06' 20" E 355.20 feet along land shown as Parcel A on said map and now or formerly of Webster Bank;

Thence proceeding S 58° 23' 31" E 191.90 feet along land now or formerly of Fusco as shown on said map;

Thence S 31° 36' 28" W 1552.46 feet along land now or formerly of Earnday & Angela Fusco as shown on said map;

Thence N 48° 44' 17" W 435.71 feet along land now or formerly of F.I.P. Realty Corp. as shown on said map;

Thence N 24° 29' 05" E 2128.16 feet along land now or formerly of F.I.P. Realty Corp., VDO Control Systems, Inc., Virginia Industries, Inc., and Cheshire land Trust, Inc., in part by each as shown on said map, to the point of beginning.

Together with a Santitary Sewer Easement from Earnday Fusco, Angela Fusco, Regina Bounds and Donald Bounds, Jr. to Leonard Paolella dated November 15, 1984 and recorded in Volume 494 at Page 210 of the Cheshire Land Records.

EXHIBIT C

(1) Lists of the names, addresses and account numbers of all utility companies, vendors, contractors and suppliers providing goods and/or services to the Mortgaged Premises, together with (a) copies of all contracts, warranties and agreements currently in force with any utility companies, vendors, contractors and suppliers, and (b) copies of all unpaid bills and invoices relating thereto;

(2) with respect to all Leases in effect or for which Rents are due and owing: all (a) Leases (including any amendments, terminations, renewals, modifications and riders thereto); (b) rent rolls and lists and/or ledgers setting forth all tenants, rentals and security deposits; and (c) tenant files, tenant histories, tenant accounts receivable/aging reports, and contact information for all tenants;

(3) all insurance policies, certificates and endorsements, and any documents relating to any existing or pending insurance losses and claims;

(4) all governmental approvals, licenses, permits and occupancy certificates;

(5) all surveys, plans, drawings, specifications, engineering reports, environmental reports and construction contracts;

(6) all materials relating to the advertising of rental units at the Mortgaged Premises;

(7) all pleadings, orders, motions and papers filed in any pending legal action, arbitration or other proceeding relating to or affecting the Receivership Property;

(8) all lists or inventories of equipment, vehicles and furnishings located at the Mortgaged Premises;

(9) all statements and records of any deposit, checking and/or operating accounts of any Defendant at any bank or financial institution relating to the Receivership Property for the period from November 1, 2014 to the present;

(10) all statements and ledgers showing in reasonable detail: (a) the income and expenses relating to the Receivership Property for the period from November 1, 2014 to the present; and (b) Defendant's current accounts payable and aged accounts receivable;

(11) all bills, invoices and receipt for real estate taxes assessed against the Mortgaged Premises for the period from November 1, 2014 to the present;

(12) all work papers for the computation of current and prior year operating expenses and real estate tax escalation billings, including base years and base amounts where applicable;

(14) and all other miscellaneous contracts, documents and instruments relating in any way to the Mortgaged Premises.

EXHIBIT D

RECEIVERSHIP FEES

To perform receivership services, the proposed receiver fee is as follows:

663 East Crescent Ave., Ramsey, NY	$2,250 / mo.
1881 Route 46, Ledgwood, NJ	$2,250 / mo.
180 Kost Rd., Carlisle, PA	$2,250 / mo.
550 Research Parkway, Meriden, CT	$2,800 / mo.
160 Corporate Avenue, Meriden, CT	$2,800 / mo.
611-617 West Johnson Ave., Cheshire, CT	$3,550 / mo.

With respect to leasing commissions: CBRE will receive a 5% commission on new leases procured by CBRE. For leases procured by a third party, cooperating brokers will be entitled to a 5% commission and CBRE will receive a 2% override commission. CBRE will receive a 3% commission on lease renewals.

I HEREBY CERTIFY that the above and foregoing is a true and correct copy of the original on file in my office.
ATTEST
WILLIAM T. WALSH, Clerk
United States District Court
District of New Jersey
By: _____
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

NEW YORK LIFE INSURANCE COMPANY, Plaintiff vs 663 EAST CRESCENT AVENUE, LLC, a New Jersey limited liability company; ROXBURY 2002, LLC, a New Jersey limited liability company; SILVER SPRINGS INDUSTRIAL PARK, L.P., a Pennsylvania limited partnership; CHESHIRE 2004, LLC, a Connecticut limited liability company; HPFVI-550 RESEARCH PARKWAY, LLC, a Connecticut limited liability company; HPFVI-160, CORPORATE CENTER, LLC, a Connecticut limited liability company Defendants	CIVIL ACTION NO: 2: 15-CV-07437-CCC-MF

I HEREBY CERTIFY that the above and foregoing is a true and correct copy of the original on file in my office.
ATTEST
WILLIAM T. WALSH, Clerk
United States District Court
District of New Jersey
By: Shia Smith
Deputy Clerk

CONSENT ORDER AMENDING ORDER OF NOVEMBER 25, 2015, TO PERMIT THE RECEIVER, CBRE, INC., TO LEASE, LIST FOR SALE, MARKET FOR SALE AND SELL THE RECEIVERSHIP PROPERTY

AND NOW this 30 day of September, 2016, upon the consent of counsel to the Plaintiff, counsel to the Defendants and counsel to the Receiver:

IT IS ORDERED as follows:

1. The powers of the Receiver, CBRE, Inc. outlined in the Order of November 25, 2015 shall be amended to include the power to sell the Receivership Property identified in the November 25, 2015 Order (the "Receiver Order") and Exhibit A thereto and to modify the Receiver's authority to maintain and lease the Receivership Property subject to NYLIC's approval.

2. The Receiver is hereby authorized to engage CBRE, Inc. as broker for the Receiver, in accordance with the Listing Agreement attached hereto as Exhibit "A"; and to incur the costs for such activities to be paid from Receivership funds as set forth therein, said costs to be included in the Receiver's reporting obligations pursuant to the Receiver Order.

3. All sales of Receivership Property shall be in the Plaintiff's sole discretion. Upon receipt of an offer to purchase any of the properties comprising the Receivership Property the Receiver shall provide written notice of such offer or offers to counsel for the Plaintiff. Counsel for the Plaintiff shall provide to the Receiver written notice of rejection of said offer or offers within five (5) Business Days of receipt of such notice. To the extent that no rejection is received within five (5) Business Days, the offer shall be deemed approved and the Receiver shall be authorized to engage transaction counsel for the purpose of preparation of contract documents or review of contract documents prepared by offerors. Receiver's counsel shall present to counsel for the Plaintiff a final draft of proposed contract of sale which contains all contract terms, conditions and contingencies. To the extent that the Plaintiff approves a contract (each such contract an "Approved Contract"), the Receiver shall be authorized to execute the Approved Contract and all closing documents, as limited attorney-in-fact for the selling entity. To the extent that Plaintiff rejects a proposed contract, the Receiver and the Plaintiff shall work in good faith to resolve such objection. The Receiver expressly retains the right to seek a further Order of this Court approving any contract of sale.

4. In the event a purchaser or purchaser's title company requires, under the terms of an Approved Contract, execution of title or closing documents customarily delivered by Plaintiff or Defendants as a condition of title transfer, Plaintiff or Defendants (as appropriate) shall execute said documents within ten (10) days of the Receiver's written request, which request will contain all documents for which execution is required, so long as such documents do not impose either expense or liability of the Defendants more than nominal.

5. The Receiver shall be empowered to sell any property subject to an Approved Contract that conveys marketable title, which is title that is insurable by a reputable title insurance company doing business in the State in which the Property is located, subject only to standard printed exceptions of an ALTA Form 6-17-06 title insurance policy at ordinary premium rates and otherwise without special exception or premium, and is authorized to pay all costs, fees, and commissions as set forth in the Listing Agreement. In the event of an extraordinary cost or expense, the Receiver shall notify counsel to the Plaintiff. To the extent that no objection to the incurrence of such extraordinary cost or expense item is received within five (5) Business Days of delivery of such notice, the incurrence of the cost or expense shall be deemed approved and shall be paid from funds held by the Receiver or

deducted from the purchase price, as appropriate. To the extent that a written objection is received from Plaintiff's counsel within such period, and the Receiver believes incurring such expense is necessary to complete the transaction the Court shall retain jurisdiction to decide the issue upon the application of the Receiver.

6. Upon closing of a sale under an Approved Contract, any liens, claims or encumbrances with respect to such Property shall attach to the sale proceeds in their relative order of priority, and the Receiver shall disburse the proceeds of such sale, less ordinary and necessary costs of sale, unpaid priority taxes and any other amounts secured by liens with a priority senior to the mortgage liens of Plaintiff to Plaintiff for application to the amounts due under the Loan in accordance with the Loan Documents until such time as all amounts due under the Loan have been repaid in full. From and after the date on which the Loan has been repaid in full, the Receiver shall apply the net proceeds of sale to any liens, claims or encumbrances with a priority junior to the liens of Plaintiff and any remaining balance shall be paid to the appropriate Defendant.

7. The Receiver will continue to maintain and lease the Receivership Property however, notwithstanding anything in the Receiver Order to the contrary:

a) Plaintiff shall have the sole right to approve (i) any lease or occupancy agreement for all or any portion of the Receivership Property, including any renewal, expansion, amendment or extension of any existing lease or (ii) other contract or agreement which might become the obligation of Plaintiff or its designee or nominee or modify, cancel, accept the surrender of or renew (except when any such acceptance of surrender or renewal is non-discretionary) any other contract or agreement which exists at present and (iii) any extraordinary expenses associated with the Receivership Property.

b) To the extent that Plaintiff accepts any proposal for a lease or lease extension, amendment or renewal which would require funds in excess of those currently on deposit with the Receiver for tenant improvements, leasing commissions or other expenses, such amounts will be the sole responsibility of Plaintiff;

8. In the event any Receivership Property has not been sold, transferred or otherwise disposed of by March 31, 2017, (the "Outside Disposition Date"), the Receiver has the power, authority and is obligated to execute, deliver and record and file the deeds and any other relevant documents to convey title to any such remaining Receivership Property to Plaintiff or Plaintiff's designee (provided, with respect to any deed to a designee, that the designee is identified in writing to the Receiver prior to the Outside Disposition Date) in accordance with paragraph 9 of that certain Loan and Litigation Settlement Agreement among Plaintiff and Defendants, pdf copies of which are to be simultaneously delivered to Plaintiff. Title to such Receivership Property

shall be deemed conveyed to Plaintiff or its designee (as the case may be) upon delivery of pdf copies of the deeds and other conveyance documents to Plaintiff.

9. A conformed copy of this Order shall be served by the Receiver upon counsel for the parties.

BY THE COURT:

Hon. Claire C. Cecchi, USDJ

The foregoing is hereby consented to:

WHITE AND WILLIAMS LLP

Thomas M. Pinney, Esquire
1650 Market Street, Suite 1800
Philadelphia, PA 19103
Counsel to Plaintiff

SHAPIRO, CROLAND, REISER, APFEL & DI IORIO, LLP

Robert Shapiro, Esquire.
411 Hackensack Avenue
Hackensack, NJ 07601
Counsel to Defendants

GRAZIANO, PIASECKI & WHITELAW LLC

Donald B. Whitelaw, Esquire
239 U.S. 22 East, Suite 303
Green Brook, NJ 08812
Counsel to the Receiver

EXHIBIT A
Listing Agreement

EXCLUSIVE SALES LISTING AGREEMENT

This EXCLUSIVE SALES LISTING AGREEMENT ("Agreement"), dated as of _____ ___, 2016, is made between CBRE, Inc. as the duly appointed receiver (the "Seller") in the civil action captioned *New York Life Insurance Company v. 663 East Crescent Avenue LLC*, Civ. Action No. 2:15-CV-07437 (the "Foreclosure Action") pending in the United States District Court for the District of New Jersey (the "Court") having an address at Park 80 West Plaza Two, 250 Pehle Avenue, Suite 600, Saddle Brook, New Jersey 07663 and CBRE, Inc. (the "Broker"), a Delaware corporation having an office at Park 80 West Plaza Two, 250 Pehle Avenue, Suite 600, Saddle Brook, New Jersey 07663.

WITNESSETH

On or about October 15, 2015, New York Life Insurance Company ("NYLIC") filed a complaint and commenced the Foreclosure Action. The Seller was appointed receiver for the Property set forth on Exhibit "A" (the "Premises") pursuant to an Order entered by the Court on November 25, 2015. The Premises are owned by the entities set forth on Exhibit "A" (each an "Owner" and collectively, the "Owners"). The Seller wishes to sell the Premises pursuant to a contract of sale in form and content satisfactory to the Seller and approved by an Order of the Court (as same may be amended, the "Sellers' Contract").

The Broker is a licensed real estate broker in the State of New Jersey. The Seller wishes to engage the Broker to procure purchasers ("Purchasers") for the Premises, and Broker wishes to procure such Purchasers for the Premises.

NOW, THEREFORE, in consideration of the sum of ten dollars ($10.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Seller and the Broker mutually agree as follows:

1. Subject to the terms of this Agreement, the Seller hereby exclusively appoints and engages the Broker to procure a Purchaser for the Premises. Such engagement is exclusive, and shall be for a term commencing on the date hereof and ending on December 31, 2016 (the "Term" or such time period as may be ordered by the Court); provided that the Seller may, in its sole discretion, terminate this Agreement and the Term if the Broker acts in bad faith, violates applicable law(s) or breaches any of the terms and conditions of this Agreement, provided that the Seller gives the Broker 15 days' prior written notice of such termination. Such termination shall be effective upon the date set forth in the written notice thereof from the Seller to the Broker. The Seller may also terminate this Agreement at any time if the Seller decides to withdraw or remove the Premises from the market permanently or temporarily; provided that in the event the Premises is subsequently sold to a Prospective Purchaser (as defined in Paragraph 20 hereof) pursuant to a contract for which the Broker would otherwise have been due a commission hereunder but for such termination, the Broker shall be entitled to receive such a Commission (as hereinafter defined) in connection with such sale as if this Agreement had not been so terminated. The purchase price for the Premises and all terms and conditions of the sale shall be approved by an Order of the Court following notice and a hearing.

2. During the term of this Agreement, the Seller shall refer to the Broker any and all inquiries with respect to the potential sale of the Premises.

3. The commission ("Commission") payable by the Seller to the Broker at such time as the Broker is entitled to receive a commission in accordance with the terms of this Agreement shall be an amount as set forth in Exhibit B, Statement of Commission.

4. The Seller shall pay the Commission to the Broker at Closing, but only as, if and when, and not unless or until, a deed to one or more of the Premises is delivered by the Seller to a Purchaser, and such Purchaser shall have accepted such deed and shall have paid the full Purchase Price due at closing to the Seller in accordance with the Seller's Contract. Notwithstanding anything contained herein to the contrary, the Seller shall not pay any Commission to the Broker in connection with a transfer or conveyance of the Premises to a direct or indirect wholly-owned subsidiary NYLIC. The Seller shall arrange for persons other than the Broker to conduct the closing.

5. If (i) within the Term of this Agreement the Seller enters into a contract of sale or an option contract for the sale, exchange or transfer of the Premises with any person or entity (except as otherwise provided in paragraph 4) and the sale described in such contract closes during the Term, during the Protection Period (as hereinafter defined) or at any time immediately subsequent thereto, or (ii) within the period ending 90 days after the earlier of the date of the termination of this Agreement or the expiration of the Term ("Protection Period"), the Seller sells, exchanges or otherwise transfers a fee ownership interest (excluding a lease or rental not coupled with a right to purchase) to the Premises to a Prospective Purchaser, the Seller shall pay the Commission to the Broker subject and in accordance with the provisions of this Agreement and an Order of the Court. The Protection Period shall be extended with respect to any Prospective Purchasers with whom active negotiations are pending at the end of such Protection Period until such Prospective Purchaser signs the Seller's Contract and Seller sells, exchanges or otherwise transfers fee ownership interest to the Premises to such Prospective Purchaser in accordance with the Seller's Contract or Seller and such Prospective Purchaser have terminated negotiations. Except for the provisions set forth above, the Broker shall not be entitled to a Commission hereunder after the termination of this Agreement or the expiration of the Term hereof.

6. Subject to the provisions of paragraphs 4 and 5, the Seller shall pay the Commission to the Broker only when it is earned in accordance with the terms and conditions of this Agreement.

7. If for any reason whatsoever:

   (a) the Seller's Contract is not executed, including, but not limited to, (i) the Seller's arbitrary refusal to continue negotiations or to enter into the Seller's Contract, or (ii) a Purchaser's refusal to execute the Seller's Contract;

(b) the Seller's Contract is executed but the transaction does not actually close;

(c) the Seller's Contract is not approved by an Order of the Court;

(d) the full balance of the consideration to be paid at closing in accordance with the Seller's Contract is not paid to Seller or its designees; or

(e) the transaction shall not be finally closed for any reason whatsoever, including, without limitation, the Seller's acts, omissions or negligence (but excluding willful default by the Seller pursuant to the Seller's Contract), or a Purchaser's failure or refusal to accept such title to the Premises as may be offered by the Seller, or the unmarketability or uninsurability of the Seller's title to the Premises;

then upon the occurrence of any one or more of the foregoing, the Seller shall be released from its obligation to pay the Broker the Commission which might be due or payable to the Broker in connection with such transaction, and any and all commissions or compensation of any kind, except for marketing or other expenses approved by Seller for reimbursement pursuant to Paragraph 19 hereof. The Seller shall not be obligated to commence any action whatsoever for damages or specific performance against a Purchaser or to clear any defects in title.

8. Broker is authorized to solicit and cooperate with other licensed real estate brokers who represent Prospective Purchasers for the Premises ("Cooperating Brokers"). Broker shall advise Seller of any prospective Cooperating Brokers that have contacted Broker, and Seller's written approval shall be required before Broker enters into a Cooperating Broker Agreement (as hereinafter defined) with a prospective Cooperating Broker. Upon Seller's written approval of a prospective Cooperating Broker, the Broker shall immediately enter into a written agreement with each such Cooperating Broker in form and substance acceptable to Seller ("Cooperating Broker Agreement") wherein the Cooperating Broker agrees for the benefit of Broker and Seller to look solely to the Purchaser, and not to the Seller for payment of any Commission due the Cooperating Broker, it being understood that the Seller shall not be liable for the payment of the Commission or other amount whatsoever to any Cooperating Broker. The Cooperating Broker Agreement shall provide that the Cooperating Broker unconditionally and irrevocably waives any claim against Seller for any commission or compensation relating to the sale of the Property to a Purchaser with which the Cooperating Broker dealt. The Cooperating Broker Agreement shall include a confidentiality provision comparable to the confidentiality provision in Paragraph 15 of this Agreement which shall run to the benefit of Seller. The Broker shall indemnify, hold harmless and defend Seller, NYLIC and each Owner, and their respective agents, employees and directors from and against any and all losses, claims, demands, causes of action, costs or expenses, including, without limitation, reasonable attorneys' fees and disbursements (collectively, "Claims") to the extent such Claims are attributable to dealings or communications, alleged or actual, between the Broker and any Cooperating Broker.

9. Any sale under a Seller's Contract is subject to an Order of the Court approving such sale after notice and a hearing.

NYLIC and the Owners and their respective counsel shall be responsible for determining the legal sufficiency of the Seller's Contract and all other documents relating to the transaction contemplated by this Agreement; and NYLIC and the Owners and their financial advisors shall be responsible for determining the tax consequences of any transaction contemplated under this Agreement.

10. Any offer to sell and the sale of the Premises shall be with respect to the Premises in its "AS IS" condition, without representation or warranty as to: zoning or special use; conformity of the improvements to use thereof, or to current zoning, building or occupancy laws including the Americans with Disability Act; the environmental health of the Premises including compliance with any applicable hazardous waste laws or regulations; the condition or suitability of earth underlying the Premises for the existing or for any future use; the condition of the roof or other part of any structure; the condition or suitability of any improvement thereon for occupancy; the condition or operability of any utility systems or appliance; or other repair or rehabilitation work performed or to be performed by the Seller. Prospective Purchasers shall be advised of this fact and shall be allowed to make independent investigations of the Premises made by their own experts, at their own expense pursuant to the provisions set forth in Seller's Contract. The Purchaser of the Premises will take title to the Premises subject to all leases, rights of tenancy, occupancy agreements, any current taxes, assessments, supplemental assessments and bonds, covenants, conditions and restrictions, reservations, rights of way and easements of record.

11. Unless otherwise provided in the Seller's Contract, the purchase price shall include all personal property ("Personal Property") located on the Premises and owned by the Seller on the date of full execution of the Seller's Contract. The Personal Property shall also be transferred to a Purchaser in its "AS IS" condition, without representation or warranty, subject to the terms of Paragraph 10 above.

12. The Broker shall indemnify, hold harmless and defend the Seller NYLIC and the Owners, and their respective agents, employees and directors from and against any and all Claims related to or arising in any manner whatsoever from the Broker's acts pursuant to this Agreement to the extent such Claims are attributable to Broker's wrongful act, failure to act, misrepresentation or breach of this Agreement. Broker will have the sole and absolute right to select and employ an attorney or attorneys to defend it against such Claims and Seller, NYLIC and the Owners will cooperate with Broker and its attorneys in connection with the resolution of any such Claims.

13. Reserved.

14. The Seller and the Broker acknowledge, by their respective signatures hereon, that the law prohibits discrimination for or against any person because of race, creed, color, sex, national origin, marital status or physical handicap.

15. As used in this Agreement, the term "Confidential Information" means information provided by Seller to Broker pertaining to the Premises and which Seller in good faith believes to contain legally protectable and/or otherwise confidential trade secrets, non-public research, development, or financial information, and that Seller designates in writing as confidential at the time it is provided to Broker. Confidential Information does not include information that (i) was known to Broker at the time it was provided by Seller, (ii) was publicly available at the time it was provided by Seller or thereafter becomes publicly available without breach by Broker of its obligations hereunder, (iii) becomes available to Broker on a non-confidential basis from a source other than Seller or its representatives, (iv) can be shown to have been developed independently by Broker, (v) is required to be disclosed by court order, regulation, or other law or legal process; or (vi) is approved for release by written agreement of Seller. For a period of two (2) years from the date of disclosure of any Confidential Information to Broker under this Agreement, except as required for the marketing of the Premises and as approved by Seller, the Broker shall keep confidential all Confidential Information provided to the Broker by the Seller. Except as otherwise provided herein or as required by law, the Broker shall not make a public announcement of the purchase and sale transaction contemplated hereby or of any of the terms hereof or of the Seller's Contract, including, without limitation, the results of any inspection, test, survey or study conducted pursuant to the Seller's Contract. Upon Seller's written request, the Broker shall, to the best of its ability, promptly return to the Seller all of the Confidential Information theretofore delivered to the Broker by the Seller, provided that, notwithstanding anything herein to the contrary, Broker shall be permitted to retain one copy of all Confidential Information as required by applicable law. Except as otherwise provided herein or as required by law, the Broker shall not, without Seller's written consent, disclose Confidential Information to any third party. Broker also agrees to only disclose Confidential Information to those employees, agents and advisors of Broker who have a need to know such Confidential Information in order to assist Broker in carrying out its obligations under this Agreement.

16. The Broker shall develop and send to the Seller an investment package to prospective buyers of the Premises within twenty (20) days of the date of this Agreement. The Broker will implement the Seller's reasonable requests as to the procedures and techniques used in marketing the sale of the Premises. The Broker may not disseminate or otherwise use any advertisements or other marketing materials regarding the Premises unless the Seller has first approved the form and content of such advertisements or materials in writing.

17. The Broker agrees to use its commercially reasonable efforts to accomplish the sale of the Premises within the Term of this Agreement. The term "commercially reasonable efforts" shall mean, by way of illustration and not by limitation, that the Broker shall market the Premises, using such advertising and other promotional and marketing activities as the Seller shall approve. The Broker shall submit to the Seller for its review and approval, all proposed advertising and where such advertising shall be placed. The Broker shall not place any signs on or about the Premises without the Seller's prior written consent.

18. The Broker shall prepare and submit to the Seller for its approval in its sole discretion a marketing budget (the "Budget") setting forth in reasonable detail the estimated marketing expenses to be incurred by the Broker and to be reimbursed by the Seller in connection with the performances of the services hereunder and the preparation and production of sales, marketing and offering brochures and materials. The Budget shall include, without limitation, line items for advertising, photography, printing, long distance telephone calls and courier services. Upon the Seller's request, Broker shall provide to the Seller reasonable evidence of all of the costs and expenses incurred by the Broker and to be reimbursed by the Seller in connection with this Agreement. Upon receipt of an invoice with supporting documentation of all Marketing Expenses incurred by the Broker, the Seller shall reimburse the Broker for all marketing expenses ("Marketing Expenses"), provided that said marketing expenses shall not exceed $3,000.00 (the "Marketing Expenses Cap Amount"), unless approved in writing by the Seller or approved by an Order of the Court. Notwithstanding anything to the contrary set forth in this Agreement in the event that the Seller terminates this Agreement prior to the expiration of the Term as a result of the Seller choosing to withdraw the Premises from the market, the Seller shall reimburse the Broker for the approved marketing expenses incurred by the Broker prior to the date of such termination in connection with the performances of its services under this Agreement, provided same do not exceed the specific approved line items for such costs as set forth in the Budget and in no event shall the amount to be reimbursed exceed the Marketing Expenses Cap Amount unless approved in writing by Seller or approved by an Order of the Court.

19. Within seven (7) days after the termination or the expiration of the Term of this Agreement, the Broker shall deliver to the Seller, in writing, a notice containing the names of all such persons with whom the Broker conducted active negotiations regarding a sale or transfer of the Premises (a "Prospective Purchaser"). Such notice shall include the name of the Prospective Purchaser, the name, address and telephone number of the individual representatives of the Prospective Purchaser with whom contacts were made, the material terms of the proposed sale of the Premises to the Prospective Purchaser, and the dates of all material communications with said representatives of each Prospective Purchaser.

20. It is understood and agreed that the Broker is an independent contractor and shall not be considered Seller's agent for any purpose whatsoever, and that the Broker is not granted any right or authority to assume or create any obligation or liability or make any representation, warranty or agreement (express or implied) on the Seller's behalf or to bind the Seller in any manner whatsoever.

21. The Seller acknowledges that, from time to time, the Broker may provide to other persons or other properties services that are similar to or in conflict with those that are to be provided pursuant to this Agreement, including, for example, listing other properties which may be competitive with the Premises and showing prospective purchasers other properties in addition to the Premises. Such other persons and/or properties may be in direct or indirect competition with the Seller, and the Seller consents thereto, provided that the Broker shall not disclose the Confidential Information of the Seller.

22. Each party warrants and represents to the other party that the individual signing this Agreement on its behalf has the authority to execute this Agreement on such party's behalf and to bind such party to the terms hereof

23. Each notice or other communication required or permitted by this Agreement shall be in writing, and shall be deemed properly given and effective on the day delivered, if personally delivered, or on the next business day if sent by an over-night courier service (with next business day delivery specified) or three days after deposited in the United States mail, certified mail with postage prepaid and return receipt requested addressed to the appropriate address indicated below or as otherwise provided in writing to the other party to this Agreement:

If to the Seller:	CBRE, Inc., as Receiver Park 80 West Plaza Two 250 Pehle Avenue, Suite 600 Saddle Brook, NJ 07663 Attn: Neil Kurtz
If to the Broker:	CBRE, Inc. Park 80 West Plaza Two 250 Pehle Avenue, Suite 600 Saddle Brook, NJ 07663 Attn: Kevin P. Walsh
With a copy to:	CBRE, Inc. 200 Park Avenue New York, NY 10166 Attn: Senior Vice President - Legal

24. This Agreement, as modified or conditioned by any Order of the Court, constitutes the entire agreement between the Seller and the Broker with respect to the subject matter hereof, shall be construed and enforced in accordance with the laws of the State of New Jersey, without respect to conflicts of laws principles, and may be modified only by a writing signed by the Seller and the Broker. Neither party shall assign this Agreement except pursuant to an Order of the Court.

25. This Agreement may be executed in counterparts, or facsimile or electronic (.pdf) counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

26. In the event any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable for any reason whatsoever, that provision shall be severed from this Agreement and shall not affect the validity of the remainder of the Agreement.

27. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity, other than the parties hereto and their successors or assigns, any rights or remedies under or by reason of this Agreement.

The undersigned the Seller and the Broker both hereby acknowledge receipt of a copy of this Agreement.

[Remainder of page intentionally left blank. Signature page to follow.]

IN WITNESS WHEREOF this Agreement has been duly executed by the parties hereto on the day and year first above written.

SELLER:	BROKER:
CBRE, Inc. as Receiver	CBRE, Inc., a Delaware corporation
By:_____	By:_____
Name: _____	Name: _____
Title: _____	Title: _____

EXHIBIT A
LIST OF SELLING ENTITIES AND PROPERTY ADDRESSES

663 East Crescent Avenue, LLC (Owner of 663 East Crescent Ave., Ramsey, N.J.)

Roxbury 2002, LLC (Owner of 1881 Route 46 West, Ledgewood, N.J.)

Silver Springs Industrial Park, L.P. (Owner of 180 Koat Rd., Carlisle, Pennsylvania)

Cheshire 2004, LLC (Owner of 611-617 W. Johnson Ave., Cheshire, Connecticut)

HPFVI-550 Research Parkway, LLC (Owner of 550 Research Parkway, Meriden, Connecticut)

HPFVI-160 Corporate Center, LLC (Owner of 160 Corporate Ave., Meriden, Connecticut)

EXHIBIT B
STATEMENT OF COMMISSION PERCENTAGES

663 East Crescent Avenue, LLC	2.75 %
Roxbury 2002, LLC	0.75 %
Silver Springs Industrial Park, L.P.	1.25 %
Cheshire 2004, LLC	2.50 %
HPFVI-550 Research Parkway, LLC	1.75 %
HPFVI-160 Corporate Center, LLC	1.50 %

The parties further agree that in the event a sale is consummated between Seller and tenant in the case of Silver Springs Industrial Park and/or in the case of 160 Corporate Center, and said sale (s) are completed independent of the marketing efforts of Broker, Broker shall not be entitled to a Commission.

I HEREBY CERTIFY that the above and foregoing is a true and correct copy of the original on file in my office.
ATTEST
WILLIAM T. WALSH, Clerk
United States District Court
District of New Jersey

By: Shea Smith
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

NEW YORK LIFE INSURANCE COMPANY Plaintiff, v. 663 EAST CRESCENT AVENUE LLC, a New Jersey limited liability company; and ROXBURY 2002, LLC, a New Jersey limited liability company; and SILVER SPRINGS INDUSTRIAL PARK, L.P., a Pennsylvania limited partnership; and CHESHIRE 2004, LLC, a Connecticut limited liability company; and HPFVI–550 RESEARCH PARKWAY, LLC, a Connecticut limited liability company; and HPFVI-160 CORPORATE CENTER, LLC, a Connecticut limited liability company Defendants.	CIVIL ACTION: NO.: 2:15-CV-07437-CCC-MF

I HEREBY CERTIFY that the above and foregoing is a true and correct copy of the original on file in my office.
ATTEST
WILLIAM T. WALSH, Clerk
United States District Court
District of New Jersey
By: Shea Smith
Deputy Clerk

CONSENT JUDGMENT IN MORTGAGE FORECLOSURE

Plaintiff New York Life Insurance Company, a New York mutual insurance company ("Plaintiff" or "Lender") and 663 East Crescent Avenue, LLC, Roxbury 2002, LLC, Silver Springs Industrial Park, L.P., Cheshire 2004, LLC, HFFVI-550 Research Parkway, LLC and HPFVI-160 Corporate Center, LLC (each a "Defendant" and collectively, the "Defendants") STIPULATE as follows:

On or about December 5, 2007, Plaintiff loaned Borrowers One Hundred Thirty Million Dollars ($130,000,000) ("the Loan") pursuant to the terms of a promissory note (the "Note"). The Note is secured by, among other things, Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated or effective as of December 5, 2007 (collectively, the "Mortgages"). Each Mortgage was duly recorded. Each Mortgage encumbers, as a lien, the properties set forth on Schedule 1.

The collateral under each Mortgage is comprised of the respective Defendant's fee simple interest in its respective property, including without limitation all structures, buildings, improvements, furniture, fixtures, equipment, inventory and other personal property located, situated or used therein (collectively, the "Mortgaged Premises").

Upon the consent and agreement of the Plaintiff and the Defendants; and sufficient cause appearing;

IT IS on this 30 day of September, 2016, ORDERED and ADJUDGED that a judgment in mortgage foreclosure is hereby granted against the Defendants, jointly and severally, in favor of the Plaintiff in the sum of $77,909,652.67 together with lawful interest thereon to be computed from and after August 15, 2016, at the rate of $21,499.06 per day together with costs of this action to be taxed including counsel fees arising after such date, and it is further

ORDERED and ADJUDGED that the Mortgaged Premises be sold, in whole or in part, to raise and satisfy the amounts due to the Plaintiff under this judgment and that execution issue for that purpose to allow sales of the Mortgaged Premises according to law with the proceeds of such sales used to pay the Defendants' debt to the Plaintiff, with interest thereon and costs as aforesaid, such funds shall be paid to the Plaintiff or its attorney, and that in case there is a

surplus remaining after said sales that such surplus be brought into Court to abide the further Order of the Court; and it is further

ORDERED and ADJUDGED that each Defendant stands absolutely barred and foreclosed of and from all equity of redemption of, in and to its respective portion of the Mortgaged Premises as shall be sold as aforesaid by virtue of this judgment; and it is further

ORDERED that the Plaintiff and any purchaser under the foreclosure sale duly recover against the Defendants, and all parties holding by, through or claiming under them or any of them, possession of the Mortgaged Premises, with the appurtenances and that a writ of possession issue thereon.

Hon. Claire C. Cecchi, U.S.D.J.

SCHEDULE 1

LIST OF MORTGAGED PREMISES

DEFENDANT	PROPERTY ADDRESSES
663 East Crescent Avenue, LLC	663 East Crescent Avenue, Ramsey, New Jersey
Roxbury 2002, LLC	1881 Route 46 West, Ledgewood, New Jersey
Silver Springs Industrial Park, L.P.	180 Kost Road, Carlisle, Pennsylvania
HPFVI-500 Research Parkway, LLC	550 Research Parkway, Meriden, Connecticut
HPFVI – 160 Corporate Center, LLC	160 Corporate Avenue, Meriden, Connecticut
Cheshire 2004, LLC	611-617 W. Johnson Avenue, Cheshire, Connecticut

I HEREBY CERTIFY that the above and foregoing is a true and correct copy of the original on file in my office.
ATTEST
WILLIAM T. WALSH, Clerk
United States District Court
District of New Jersey
By: Shea Smith
Deputy Clerk

Inst. # 201708738 - Page 9 of 59

REV-183 EX (2-15)

pennsylvania
DEPARTMENT OF REVENUE
Bureau of Individual Taxes
PO BOX 280603
Harrisburg, PA 17128-0603

REALTY TRANSFER TAX STATEMENT OF VALUE

See reverse for instructions.

RECORDER'S USE ONLY
State Tax Paid
Book Number INST #
Page Number 201708738
Date Recorded 4/4/17

Complete each section and file in duplicate with Recorder of Deeds when (1) the full value/consideration is not set forth in the deed, (2) the deed is without consideration or by gift, or (3) a tax exemption is claimed. If more space is needed, please attach additional sheets. A Statement of Value (SOV) is not required if the transfer is wholly exempt from tax based on family relationship or public utility easement. However, it is recommended that a SOV accompany all documents filed for recording.

A. CORRESPONDENT - All inquiries may be directed to the following person:

Name	Telephone Number:
White and Williams LLP c/o Thomas M. Pinney, Esq.	(215) 864-6371

Mailing Address	City	State	ZIP Code
1650 Market Street, Suite 1800	Philadelphia	PA	19103

B. TRANSFER DATA

Date of Acceptance of Document: 03 / 31 / 2017

Grantor(s)/Lessor(s)	Telephone Number:	Grantee(s)/Lessee(s)	Telephone Number:
CBRE, Inc., as receiver,	[redacted]	PA 180 Kost Road, LLC	[redacted]
Mailing Address		**Mailing Address**	
Park 80 West, Plaza Two, 250 Pehle Ave., Suite 600		c/o NY Life Insurance Company, 51 Madison Ave, Ste 1016	

City	State	ZIP Code	City	State	ZIP Code
Saddle Brook	NJ	07663	New York	NY	10010

C. REAL ESTATE LOCATION

Street Address	City, Township, Borough
180 Kost Road	Silver Spring Township

County	School District	Tax Parcel Number
Cumberland County	Cumberland Valley	38-08-0571-002A

D. VALUATION DATA

Was transaction part of an assignment or relocation? ☐ Y ☒ N

1. Actual Cash Consideration	2. Other Consideration	3. Total Consideration
10.00	+10,963,834.27	= 10,963,844.27
4. County Assessed Value	**5. Common Level Ratio Factor**	**6. Computed Value**
2,500,000.00	x 1.00	= 2,500,000.00

E. EXEMPTION DATA - Refer to instructions for exemption status.

1a. Amount of Exemption Claimed	1b. Percentage of Grantor's Interest in Real Estate	1c. Percentage of Grantor's Interest Conveyed
$ 10,963,844.27	100.00 %	100.00 %

2. Check Appropriate Box Below for Exemption Claimed.

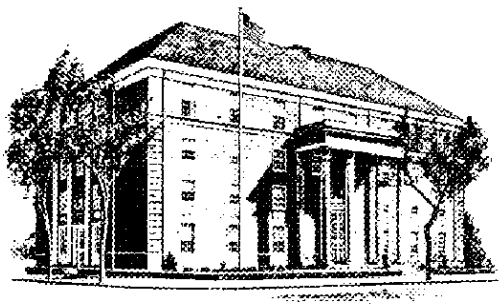
- ☐ Will or intestate succession. _____ (Name of Decedent) _____ (Estate File Number)
- ☐ Transfer to a trust. (Attach complete copy of trust agreement identifying all beneficiaries.)
- ☐ Transfer from a trust. Date of transfer into the trust _____
  If trust was amended attach a copy of original and amended trust.
- ☐ Transfer between principal and agent/straw party. (Attach complete copy of agency/straw party agreement.)(ATTACHED.)
- ☐ Transfers to the commonwealth, the U.S. and instrumentalities by gift, dedication, condemnation or in lieu of condemnation. (If condemnation or in lieu of condemnation, attach copy of resolution.)
- ☒ Transfer from mortgagor to a holder of a mortgage in default. (Attach copy of mortgage and note/assignment.)
- ☐ Corrective or confirmatory deed. (Attach complete copy of the deed to be corrected or confirmed.)
- ☐ Statutory corporate consolidation, merger or division. (Attach copy of articles.)
- ☐ Other (Please explain exemption claimed.) _____

Under penalties of law, I declare that I have examined this statement, including accompanying information, and to the best of my knowledge and belief, it is true, correct and complete.

Signature of Correspondent or Responsible Party	Date
	03/31/17

FAILURE TO COMPLETE THIS FORM PROPERLY OR ATTACH REQUESTED DOCUMENTATION MAY RESULT IN THE RECORDER'S REFUSAL TO RECORD THE DEED.

TAMMY SHEARER
RECORDER OF DEEDS
CUMBERLAND COUNTY
1 COURTHOUSE SQUARE
CARLISLE, PA 17013
717-240-6370



Instrument Number - **201708738**
Recorded On 4/11/2017 At 11:55:10 AM
* Total Pages - 59
* Instrument Type - DEED
Invoice Number - 228969 User ID - BMM
* Grantor - CBRE INC L P
* Grantee - PA 180 KOST RD LLC
* Customer - SIMPLIFILE LC E-RECORDING
* FEES

STATE WRIT TAX	$0.50
STATE JCS/ACCESS TO JUSTICE	$35.50
RECORDING FEES - RECORDER OF DEEDS	$118.50
PARCEL CERTIFICATION FEES	$45.00
AFFORDABLE HOUSING	$11.50
COUNTY ARCHIVES FEE	$2.00
ROD ARCHIVES FEE	$3.00
CUMBERLAND VALLEY SCHOOL DISTRICT	$0.00
SILVER SPRING TOWNSHIP	$0.00
TOTAL PAID	$216.00

Certification Page

DO NOT DETACH

This page is now part of this legal document.

I Certify this to be recorded in Cumberland County PA

RECORDER'S OFFICE CUMBERLAND COUNTY PA

RECORDER OF DEEDS

*** - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.**

EXHIBIT B

ALTA Survey

(see attached)

LEGAL DESCRIPTION
PA 180 KOST ROAD LLC
TAX PARCEL 38-08-0571-002A, 38-08-0571-002B, 38-08-0571-002C

CUMBERLAND COUNTY, PENNSYLVANIA

PARCEL "A":

BEGINNING at a point, said point being a spike within the Paved Cartway of Kost Road, said point also being on the southerly R/W line for lands now or formerly of Penn Central Railroad; thence along said R/W line for Penn Central Railroad along a curve to the right having a radius of 11,419.20 feet, and an arc length of 723.69 feet to a point; thence South 0 degrees 52 minutes 31 seconds East, 578.94 feet to a point; thence South 89 degrees 07 minutes 29 seconds West, 90.00 feet to a point; thence along a curve to the left having a radius of 75.00 feet, and an arc length of 117.81 feet to a point; thence south 89 degrees 07 minutes 29 seconds West, 535.03 feet to a poin on Westerly property line of Parcel B; thence along said Westerly property line North 3 degrees 18 minutes 00 seconds West, 670.51 feet to a spike, the point and place of beginning.

Not including in Parcel "A" that portion of said parcel conveyed to Silver Spring Township as recorded in the Cumberland County Recorder of Deeds Office in Deed Book "K", Volume 29, Page 397.

PARCEL "B":

BEGINNING at a point, said point being a spike within the Paved Cartway of Kost Road, said point also being on the southerly R/W line for lands now or formerly of Penn Central Railroad; thence along said R/W line for Penn Central Railroad along a curve to the right having a radius of 11,419.20 feet, and an arc length of 728.69 feet to the point and place of beginning; thence South 0 degrees 52 minutes 31 seconds East, 578.94 feet to a point; thence South 89 degrees 07 minutes 29 seconds West, 90.00 feet to a point; thence along a curve to the left having a radius of 75.00 feet, and an arc length of 117.81 feet to a point; thence south 89 degrees 07 minutes 29 seconds West, 535.03 feet to a point which is South 03 degrees 18 minutes 00 seconds East 670.51 feet from the spike in the Paved Cartway of Kost Road first above mentioned; thence South 03 degrees 18 minutes 00 seconds East 380.10 feet to a point; thence South 14 degrees 30 minutes 0 seconds East 284.73 feet to an iron pin; thence North 89 degrees 07 minutes 29 seconds East along the Northerly line of property of lands now or formerly of Harry W. Deitch 2,839.79 feet to a post; thence North 12 degrees 51 minutes 37 seconds West 1050.32 feet along the Westerly line of property of lands now or formerly of Jesse N. Aycock to an iron pin; thence along the Southerly R/W line for Penn Central Railroad the following two courses and distances: North 79 degrees 16 minutes 40 seconds West 330.30 feet to a point and along a curve to the left having a radius of 11,419.20 feet an arc length of 1,696.73 feet to the point and place of beginning.

BUT not including the following parcel:

BEGINNING at a point, said point being a spike within the Paved Cartway of Kost Road, said point also being on the southerly R/W line for lands now or formerly of Penn Central Railroad; thence within the Paved Cartway of Kost Road, the following two courses and distances: South 03 degrees 18 minutes 00 seconds East 1.050.61 feet to a point and South 14 degrees 30 minutes 00 seconds East 284.73 feet to an iron pin; thence North 89 degrees 07 minutes 29 seconds East 1,690.54 feet along the Northerly line of property of lands now or formerly of Harry W. Deitch to a point; thence North 00 degrees 52 minutes 31 seconds West 780 feet to the point and place of beginning; thence South 89 degrees 07 minutes 29 seconds West 486.00 feet to a point, said point being the edge of an Operations Building; thence North 0 degrees 52 minutes 31 seconds West 206.50 feet to a point, also being edge of Operations Building, then North 89 degrees 07 minutes 29 seconds East 486.00 feet to a point; thence South 0 degrees 52 minutes 31 seconds East 206.50 feet to the point and place of beginning.

BUT not including in Parcel B that portion of said parcel conveyed to Silver Spring Township as recorded in the Cumberland County Recorder of Deeds Office in Deed Book "K", Volume 29, Page 397.

PARCEL "C"

BEGINNING at a point, said point being a spike within the Paved Cartway of Kost Road, said point also being on the southerly R/W line for lands now or formerly of Penn Central Railroad; thence within the Paved Cartway of Kost Road, the following two courses and distances: South 03 degrees 18 minutes 00 seconds East 1.050.61 feet to a point and South 14 degrees 30 minutes 00 seconds East 284.73 feet to an iron pin; thence North 89 degrees 07 minutes 29 seconds East 1,690.54 feet along the Northerly line of property of lands now or formerly of Harry W. Deitch to a point; thence North 00 degrees 52 minutes 31 seconds West 780 feet to the point and place of beginning; thence South 89 degrees 07 minutes 29 seconds West 486.00 feet to a point, said point being the edge of an Operations Building; thence North 0 degrees 52 minutes 31 seconds West 206.50 feet to a point, also being edge of Operations Building, then North 89 degrees 07 minutes 29 seconds East 486.00 feet to a point; thence South 0 degrees 52 minutes 31 seconds East 206.50 feet to the point and place of beginning.

Being the same premises which CBRE, Inc., as the Court appointed Receiver for the property of Silver Springs Industrial Park, L.P 1 by Deed dated 3/29/2017 and recorded 4/11/2017 in Cumberland County in Instrument No. 201708738 conveyed unto PA 180 Kost Rd, LLC, a Delaware limited liability company, in fee.

ZONING INFORMATION

INFORMATION FROM HOWARD ZONING ASSOCIATES, LLC ZONING REPORT
Report Number: 9176-1 Dated 12/9/2022

1. ZONING: I-1 (LIGHT INDUSTRIAL)
2. SET BACK RESTRICTIONS LINES ARE FRONT 50' MINIMUM, OR STRUCTURES EXCEEDING 35' TALL SHALL BE SETBACK A DISTANCE EQUAL TO THEIR HIGHT FROM EACH PROPERTY LINE . REAR LINES ARE 25' MINIMUM, SIDE LINES ARE 25' MINIMUM .
3. MAXIMUM HEIGHT IS 45'.
4. PARKING SPACES REQUIRED IS 493 SPACES.
5. MAXIMUM AREA OF LOT COVERAGE IS 60% .

AS SURVEYED

Parcel "A"

beginning at a ; Point in the paved Cartway of Kost Road

thence with a curve turning to the right with an arc length of 31.13', with a radius of 11440.34', with a chord bearing of N 88°09'56" E, with a chord length of 31.13',to a ; Point

thence with a compound curve turning to the right with an arc length of 697.57', with a radius of 11440.34', with a chord bearing of N 89°59'37" E, with a chord length of 697.46',to a ; Point

thence S 01°20'26" E a distance of 578.94'to a ; Point

thence S 88°39'34" W a distance of 90.01'to a ; Point

thence with a curve turning to the left with an arc length of 117.80', Pointwith a radius of 75.02', with a chord bearing of S 43°39'27" W, with a chord length of 106.06',to a ;

thence S 88°39'34" W a distance of 535.03'to a ; Point

thence N 03°45'55" W a distance of 670.51'to a ; Point

which is the point of beginning,

having an area of 464295.9 square feet, 10.66 acres

AS SURVEYED

Parcel "B"

beginning at a ; Point in paved Cartway of Kost Road

thence with a curve turning to the right with an arc length of 31.13', with a radius of 158557.85', with a chord bearing of N 88°09'56" E, with a chord length of 31.13',to a ; Point

thence with a compound curve turning to the right with an arc length of 697.57', with a radius of 11440.34', with a chord bearing of N 89°59'37" E, with a chord length of 697.46',to a ; Point which is place of beginning

thence with a compound curve turning to the right with an arc length of 1696.70', with a radius of 11422.69', with a chord bearing of S 83°59'59" E, with a chord length of 1695.14',to a ; Point

thence S 79°44'35" E a distance of 330.30'to a ; Iron Pin

thence S 13°19'32" E a distance of 1050.32'to a ; Concrete Monument

thence S 88°39'35" W a distance of 2049.83'to a ; Concrete Monument

thence S 88°39'32" W a distance of 789.94'to a ; Point

thence N 14°57'58" W a distance of 284.73'to a ; Point

thence N 03°46'04" W a distance of 380.10'to a ; Point

thence N 88°39'34" E a distance of 535.03'to a ; Point

thence with a curve turning to the right with an arc length of 117.80', with a radius of 75.02', with a chord bearing of N 43°39'27" E, with a chord length of 106.06',to a ; Point

thence N 88°39'34" E a distance of 90.01'to a ; Point

thence N 01°20'26" W a distance of 578.94'to a ; Point

which is the point of beginning,

having an area of 2,868,426 square feet, 65.85 acres

LAND TITLE NOTES

EXCEPTIONS IN SCHEDULE B - PART II - ADDITIONAL EXCEPTIONS OF CHICAGO TITLE INSURANCE COMPANY COMMITMENT FOR TITLE INSURANCE, FILE NO. ORDER NUMBER: PH1222886, DATED SEPTEMBER 17, 2022, ARE ADDRESSED AS FOLLOWS:

1. EXCEPTIONS 1-7,18 ARE NOT SURVEY RELATED.

2. THE FOLLOWING EXCEPTIONS AFFECT THIS PARCEL AND ARE SHOWN ON THE FACE OF THE SURVEY:

8. SETBACK LINES, EASEMENTS, NOTES, RESERVATIONS, OPEN SPACES, CONDITIONS, WIDENING STRIPS, RESTRICTIONS OR OTHER MATTERS AFFECTING SAID PROPERTY AS SHOWN ON ANY PLAN OR MAP; AND ANY OTHER RECORDED EASEMENTS, RIGHTS OF WAY, CONDITIONS, RESERVATIONS AND RESTRICTIVE COVENANTS WHICH MAY AFFECT SAID LAND. AS SHOWN ON PAGE 2 (8)

9. GENERAL NOTES, SURVEY NOTES, UTILITY NOTES AND SETBACK LINES, EASEMENTS, RESERVATIONS, COVENANTS AND RESTRICTIONS AS SHOWN AND SET FORTH IN INSTRUMENT NO. 201818624 AND 202106563 PAGE, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW AND SHOWN ON ALTA/NSPS LAND TITLE SURVEY PREPARED BY A TO Z LAND CONSULTING SERVICES, LLC, DATED NOVEMBER 22, 2022, LAST REVISED _____, 2022, JOB NO. 22-237 ("SURVEY"). AS SHOWN ON PAGE 2 (9)

10. NOTICE AS IN INSTRUMENT NO. 202114560. AS SHOWN ON PAGE 2 AND 3 (10)

11. AGREEMENT PLACING RESTRICTIONS ON TRANSFER IN MISC BOOK 257 PAGE 550. AS SHOWN ON PAGE 2 (11)

12. RIGHTS GRANTED TO SOCONY-VACUUM OIL COMPANY IN MISC BOOK 83 PAGE 392 AND MISC BOOK 83 PAGE 393, AS SHOWN ON SURVEY (AFFECTS PARCEL B ONLY) AS SHOWN ON PAGE 2 (12)

13. RIGHTS GRANTED TO PENNSYLVANIA POWER AND LIGHT COMPANY IN DEED BOOK MISC BOOK 264 PAGE 561, AS SHOWN ON SURVEY (AFFECTS PARCEL B ONLY). AS SHOWN ON PAGE 2 (13)

14. GRANT OF EASEMENT IN MISC BOOK 282 PAGE 52, AS SHOWN ON SURVEY (AFFECTS PARCEL B ONLY). AS SHOWN ON PAGE 2 (14)

15. RIGHTS GRANTED TO COLUMBIA TRANSMISSION COMMUNICATIONS CORPORATION IN DEED BOOK MISC BOOK 668 PAGE 506, AS SHOWN ON SURVEY (AFFECTS PARCEL B ONLY). AS SHOWN ON PAGE 2 (15)

16. MEMORANDUM OF AGREEMENT IN MISC BOOK 731 PAGE 3623. (TO BE TERMINATED) AS SHOWN ON PAGE 2 AND 3 (16)

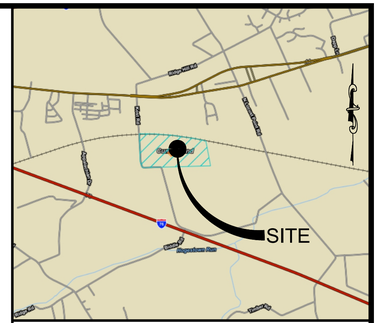
17. INTENTIONALLY DELETED

18. ESTATES, DEFECTS, LIENS OR ENCUMBRANCES EFFECTING TRACTS OF LAND EXCEPTED FROM THE PREMISES DESCRIBED HEREIN ARE NOT CERTIFIED HEREON. AS SHOWN

19. ALTA/NSPS LAND TITLE SURVEY PREPARED BY A TO Z LAND CONSULTING SERVICES, LLC, DATED NOVEMBER 22, 2022, LAST REVISED _____, 2022, JOB NO. 22-237, DISCLOSES THE FOLLOWING:
A. PARCEL C DOES NOT HAVE DIRECT ACCESS TO A PUBLIC RIGHT OF WAY (PARCEL C RELIES ON PARCEL B FOR ACCESS TO A PUBLIC RIGHT OF WAY.

NOTES:

1. FIELD SURVEY PERFORMED BY A TO Z LAND CONSULTING SERVICES LLC., COMPLETED ON NOVEMBER 21, 2022.
2. PARCEL BEING 38-08-0571-002A, 38-08-0571-002B AND 38-08-0571-002C.
3. PROPERTY ADDRESS IS 180 KOST ROADS, CARLISLE, PA 17015 TAKEN FROM RECORDS.
4. VERTICAL DATUM (NAVD88) WAS ESTABLISHED BY GPS OBSERVATION. HORIZONTAL DATUM WAS ESTABLISHED BY PENNSYLVANIA STATE PLANE COORDINATE SYSTEM (NAD83), SOUTH ZONE 3702.
5. NO PORTION OF THE SITE LIES WITHIN THE 100 YEAR FLOOD PLAIN, AS DETERMINED BY FEDERAL EMERGENCY MANAGEMENT AGENCY TAKEN FROM FLOOD INSURANCE RATE MAP NUMBER 42041C0252E, BEARING AN EFFECTIVE DATE OF MARCH 3, 2009.
6. TOTAL PARKING SPACES: 841 TOTAL (15 HANDICAP INCLUDED IN TOTAL).
7. THE TOTAL SQUARE FOOTAGE OF THE EXTERIOR BUILDINGS EQUALS:
BUILDING = 86,986 SQ. FT.
WAREHOUSE = 486,000 SQ. FT.
8. ALL UTILITIES HAVE BEEN NOTIFIED VIA THE PA ONE CALL SYSTEM AS REQUIRED BY A TO Z LAND CONSULTING SERVICES, LLC. SERIAL #20223191882-000.
9. THE LOCATIONS OF EXISTING UTILITIES SHOULD BE CONSIDERED APPROXIMATE. THE CONTRACTOR FOR THE PROJECT IS RESPONSIBLE FOR CONTACTING ALL UTILITY COMPANIES FOR VERIFICATION OF SERVICE LOCATIONS PRIOR TO EXCAVATING.
10. A TO Z LAND CONSULTING SERVICES LLC SHALL NOT BE RESPONSIBLE FOR ANY CONSTRUCTION, MEANS, METHODS, TECHNIQUES OR PROCEDURES UTILIZED BY ANY CONTRACTOR, NOR FOR THE SAFETY OF THE PUBLIC OR THE CONTRACTOR'S EMPLOYEES, OR FOR THE FAILURE OF THE CONTRACTOR TO CARRY OUT THE WORK IN ACCORDANCE WITH THE CONTRACT DOCUMENTS.
11. NOTHING SHALL BE PLACED, PLANTED, SET, OR PUT WITHIN THE AREA OF AN EASEMENT THAT WOULD ADVERSELY AFFECT THE FUNCTION OF THE EASEMENT OR CONFLICT WITH THE EASEMENT AGREEMENT.
12. NO OBSERVABLE EVIDENCE OF EARTH MOVING, BUILDING CONSTRUCTION OR BUILDING ADDITIONS.
13. NO WETLAND MARKERS WERE OBSERVED
14. SETBACKS TAKEN FROM AS BUILT PLAN FOR 180 KOST ROAD, PREPARED BY EVANS ENGINEERING, INC COMPLETED ON 11/18/2019.
15. NO VISIBLE, POSSIBLE ENCROACHMENTS EXCEPT AS MAY BE SHOWN ON THE SURVEY.
16. NO OBSERVABLE EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.
17. THE LEGAL DESCRIPTION OF THE PROPERTY IS CONTIGUOUS WITH NO GAPS OR GORES.
18. NO OBSERVABLE CHANGES IN STREET RIGHT-OF-WAY LINES EITHER COMPLETED OR PROPOSED AND AVAILABLE FROM THE CONTROLLING JURISDICTION AND NO OBSERVABLE EVIDENCE OF RECENT STREET AND/OR SIDEWALK CONSTRUCTION OR REPAIR.
19. THE PROPERTY SURVEYED IS THE SAME AS THAT WHICH IS DESCRIBED IN THE COMMITMENT.
20. PROPERTY HAS ACCESS FROM A PUBLICLY DEDICATED AND MAINTAINED RIGHT-OF-WAY (THE TOWNSHIP OF SILVER SPRING, DEED BOOK K29, PAGE 397)
21. THERE ARE NO GAPS OR GORES BETWEEN THE RIGHT-OF-WAY OF THE (THE TOWNSHIP OF SILVER SPRING, DEED BOOK K29, PAGE 397) AND THE BOUNDARY LINE OF PROPERTY.



VICINITY MAP SCALE: 1" = 3,000' ±

PARCEL OWNER, ADDRESS, AND SOURCE OF TITLE
PA 180 KOST ROAD LLC 180 KOST RD CARLISLE, PA 17050 INSTRUMENT#: 201708738

LEGEND

- 5/8" Rebar And Cap To Be Set After Construction
- All Points in Pavement (Set Mag-Nails)
- Ex. Existing
- Prop. Proposed
- OHE Overhead Electric Line
- F Fire Hydrant Feed Line
- W Water Line
- UE Underground Electric Line
- G Gas Line
- Trees/Shrubbery
- Utility Pole
- Light Pole
- Fire Hydrant
- Sign
- Storm Water Headwall
- Storm Water Inlet
- S Sewer Manhole

A to Z Land Consulting Services, LLC
403 LWE SUITE 100
McConnellsburg, PA 17233
PH 717-809-3025
www.atozlandconsultingservices.com

DATE:	NO.	REVISION:
12-9-2022	1	PER COMMENTS FROM TITLE

SURVEYOR'S CERTIFICATE

To: Chicago Title Insurance Company; PA 180 Kost Road LLC, a Delaware limited liability company: Lender- Guardian Life Insurance Company of America, it's successors and assigns as their interest may appear.

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6a, 6b, 7a, 7b, 8, 9, 11a, 13, 16 and 17 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON 11/21/2022.

11-30-2022
DATE

STEVEN LYNN WIBLE, P.L.S.
KENTUCKY REG. NO.4429

COMMONWEALTH OF PENNSYLVANIA
REGISTERED PROFESSIONAL
STEVEN LYNN WIBLE
LAND SURVEYOR
No. SU075474

TITLE COMMITMENT SURVEY
LANDS OF

PA 180 Kost Rd LLC.

SITUATED AT 180 KOST ROAD

IN SILVER SPRING TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA

Tax Map:	38
Parcel No.	002A, 002B
Drawn By:	TMK
Checked By:	SLW
Date:	11-22-2022
Scale:	1"=100'
Job No.	22-237

SHEET 1 OF 3

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	11440.34'	31.13'	31.13'	N 88°09'56" E	0°09'22"
C2	11440.34'	697.57'	697.46'	N 89°53'37" E	3°29'04"
C3	11422.69'	1696.70'	1695.14'	S 83°59'59" E	8°30'47"
C4	75.02'	117.80'	106.06'	S 43°59'27" W	90°00'14"

NAD 83

C1

C2

C3

C4

N 85°45'01" W

Building Setback Line

G

S 11°39'29" E

S79°44'35"E

330.30'

S11°19'32"E

N 88°39'31" E

486.00'

N 01°20'29" W

S 11°39'29" E

8 9 11 16

Parcel A
38-08-0571-002A
PA 180 Kost Road LLC
Instrument#: 20170738
464,296 Sq. Ft. Or 10.66 Acres

8 9 11 16

Parcel C
38-08-0571-002C
PA 180 Kost Road LLC
Instrument#: 20170738
100,359 Sq. Ft. Or 2.30 Acres

S 88°39'31" W

486.00'

S 88°39'34" W 90.01'

535.03'

S 88°39'34" W

8 9 11 16

Parcel B
38-08-0571-002B
PA 180 Kost Road LLC
Instrument#: 20170738
2,845,069 Sq. Ft. Or 65.85 Acres

N 01°20'29" W

N 01°20'29" W

780.00' (C4)

670.31'

N 03°58'58" W

580.10'

N 14°57'58" W

70' Pennsylvania Power & Light Right-Of-Way Misc
Book 264 Page 561

50' Socony-Vacuum Oil Company Right-Of-Way
Misc Book 83 Page 392

Building Setback Line

30' Columbia Transmission Communication Right-Of-Way
Within 50' Gas Company Right-Of-Way MISC Book 668 Page 506

1149.23'

2049.83'

1,950.32'

394.15'

S 88°39'35" W

789.94'

S 88°39'35" W

900.60'

A to Z Land Consulting Services, LLC

403 LWE SUITE 100
McConnellsburg, PA 17233

PH 717-809-3025
www.atozlandconsultingservices.com

DATE	NO.	REVISION
12-9-2022	1	PER COMMENTS FROM TITLE

Tax Map:	38
Parcel No.	002A, 002B
Drawn By:	TMK
Checked By:	SLW
Date:	11-22-2022
Scale:	1"=100'
Job No.	22-237

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	11440.34'	33.13'	33.13'	N 88°09'56" E	0°09'22"
C2	11440.34'	697.57'	697.46'	N 89°59'37" E	3°29'00"
C3	11422.69'	1696.76'	1695.14'	S 83°59'59" E	8°30'47"
C4	75.02'	117.80'	106.06'	S 43°59'27" W	90°00'14"

N/F
IPT Silver Spring DC LLC
Tax Parcel #38-19-1623-018
Deed Book 201516397

N/F
Norfolk Southern

Point Of Beginning

Railroad Tracks

Point Of Beginning

N/F
Norfolk Southern

C1

C2

C3

Tax Row

Volleyball Courts

Tennis Courts

Paved Parking Lot

Grass

Building Setback Line 60' Wide

Light Pole (Typ)

Concrete

Curb (Typ)

Asphalt

Inlet (Typ)

Paved Parking Lot

Existing Drainage Easement

Existing Drainage Easement

Paved Drive

Dedicated Right-of-Way Line

Light Industrial (I1)

Existing Building
86,986 Sq. Ft.

Parcel A
38-08-4571-002A
PA 180 Kost Road LLC
Instrument#: 201708738
464,298Sq. Ft. Or 10.66 Acres

Existing Farmland

Kost Road (T-574)

Paved Parking Lot

Paved Drive

Paved Drive S 88°39'34" W

535.03'

S 88°39'34" W 90.01'

Parcel B
38-08-4571-002B
PA 180 Kost Road LLC
Instrument#: 201708738
2,845,069 Sq. Ft. Or 65.85 Acres

Existing Warehouse
486,000 Sq. Ft.

Light Industrial (I1)

971.95'

Handicap Parking Signs

Manhole (Typ)

Stop Sign

Existing Drainage Easement

Paved Parking Lot

Paved Drive

Building Setback Line 60' Wide

No Parking

Substation

Dedicated Right-of-Way Line

Ex. Rebar & Cap

Ex. Concrete Monument

OHE

70' Pennsylvania Power & Light Right-Of-Way Misc
Book 264 Page 561

Pine Row

50' Socony-Vacuum Oil Company Right-Of-Way
Misc Book 83 Page 392

S 88°39'35" W 789.94'

Kost Road (T-574)

Building Setback Line 48' Wide

30' Columbia Transmission Communication Right-Of-Way
Within 50' Gas Company Right-Of-Way MISC Book 668 Page 506

2049.83'

N/F
Jack K. and Jeanne N. Sunday
102 Appalachian Drive
D.B. 134 Page 829
T.M. No. 38-08-0571-001
Area=±133 Acres

N/F
Lawrence & Judith Zimmerman
Tax Parcel #38-08-0571-003
Deed Book 201811670

Agriculture (A)

N/F
Lawrence & Judith Zimmerman
Tax Parcel #38-08-0571-003
Deed Book 201811670

Existing Drainage Easement

Existing Berm

Stop Sign

Head Wall (Typ)

Existing Stormwater Basin

S 79°44'55" E

330.30'

Ex. Rebar

N/F
Andrew & Megan Souder
Tax Parcel #38-08-0569-001
Deed Book 201616794

Existing Farmland

Agriculture (A)

Tax Row

Building Setback Line 48' Wide

2049.83'

NAD 83

A to Z Land Consulting Services, LLC
403 LWE SUITE 100
McConnellsburg, PA 17233
PH 717-809-3025
www.atozlandconsultingservices.com

DATE	NO.	REVISION
12-9-2022	1	PER COMMENTS FROM TITLE

Tax Map:	38
Parcel No.	002A, 002B
Drawn By:	TMK
Checked By:	SLW
Date:	11-22-2022
Scale:	1"=100'
Job No.	22-237
	SHEET 3 OF 3

EXHIBIT C

Text Amendment Petition

(see attached)

BEFORE THE BOARD OF SUPERVISORS OF
SILVER SPRING TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA

Re: PETITION FOR TEXT AMENDMENT
OF ZONING ORDINANCE

To the Board of Supervisors:

1. Petitioner name and address:

Silver Spring Kost CSG 1 LLC
c/o Dimension Energy
3050 Peachtree Road, Suite 460
Atlanta, GA 30305

2. Petitioner is the lessee of rooftop area for the warehouse located on Parcel ID: 38-08-0571-002B, 180 Kost Road, Silver Spring Township (the "***Township***"), Cumberland County, Pennsylvania, the deed of which is attached hereto as Exhibit A. (the "***Kost Tract***").

3. The Kost Tract is located in the Township's Light Industrial Zoning District ("***I1 District***").

4. Petitioner seeks to develop a roof-mounted (on the roof of the existing warehouse) Solar Farm on the Kost Tract consisting of solar panels and related electrical infrastructure.

5. The Township's Zoning Ordinance (the "***Ordinance***") only provides for Solar Farms as a Conditional Use in the Township's General Industrial Zoning District ("***I2 District***").

6. The Township provides for specific regulations regulating Solar Farms at Section 444 of the Ordinance (the "***Solar Regulations***")

7. Petitioner proposes a text amendment to Section 415-25.C [Conditional Uses in the Light Industrial Zone (I-1)] of the Ordinance to provide for Solar Farms as a Conditional Use in the I1 District subject to existing Solar Regulations.

8. The Solar Regulations provide for Solar Farms as a Conditional Use in the I2 District. The adoption of the Solar Regulations signifies the intent of the Township to provide for Solar Farms in the Township's more Industrial districts. This text amendment is consistent with the intent of the existing Solar Regulations.

9. Solar Farms are a low impact use that generates minimal traffic and create very minimal impervious area, especially when proposed on an existing warehouse.

10. The I1 District is well-suited for Solar Farms because:

a. There are only a few non-developed tracts in the I1 District, so as a result, any Solar Farms would likely be roof-mounted Solar Farms;

b. The I1 District and the I2 District share many similar uses and development goals;

c. The I1 District does not consist of parcels with prime agricultural soils when compared to other districts in the Township; and

d. The I1 District is in close proximity to infrastructure that allows accessible interconnection to electrical lines.

11. Petitioner believes that this text amendment will not substantially impact Cumberland County or the Township because it is narrowly tailored to properties in the I1 District in the Township.

12. Petitioner further believes the text amendment does not have any negative impacts on surrounding properties because the existing Solar Regulations establish standards for setbacks, fencing, screening, decommissioning, glare, noise impacts, etc.

13. Petitioner, therefore, believes the proposed text amendment to add Solar Farms as a Conditional Use in the I1 District of the Township will assist development of vital renewable energy, while also having a minimal effect on the surrounding area. The proposed text amendment will be good land use planning and benefit the local community and provide a reliable source of renewable energy.

Respectfully submitted,

MPL LAW FIRM, LLP

Date: **May 29, 2025**

Cory Dillinger

Dean Reynosa, Esquire
Cory Dillinger, Esquire
MPL Law Firm, LLP
96 S. George St., Suite 520
York, PA 17401
dreynosa@mpl-law.com
cdillinger@mpl-law.com
Counsel for Petitioner

EXHIBIT D

Text Amendment Ordinance

(see attached)

TOWNSHIP OF SILVER SPRING
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. _____ of 2025

AN ORDINANCE OF THE TOWNSHIP OF SILVER SPRING, CUMBERLAND COUNTY, PENNSYLVANIA AMENDING CHAPTER 415 [ZONING] OF THE CODE OF THE TOWNSHIP OF SILVER SPRING, AS AMENDED, TO PROVIDE FOR SOLAR FARMS AS A CONDITIONAL USE IN THE LIGHT INDUSTRIAL (I1) ZONING DISTRICT

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of the Township of Silver Spring, Cumberland County, Pennsylvania, that the Code of the Township of Silver Spring ("the Code"), Chapter 415 [Silver Spring Township Zoning Ordinance of 2022], as amended, is hereby amended as follows:

SECTION 1:

Silve Spring Township Zoning Ordinance shall be amended as follows:

A. Section 415-25.C shall be amended to include Solar Farms as a conditional use:

Solar Farms	**C**	**444;804**

SECTION 2. Severability.

If any section, subsection, sentence, clause, phrase, provision, or portion of this Ordinance is found to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision. Such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. Effective Date.

This Ordinance shall become effective as soon as permissible by law after its enactment by the Board of Supervisors of the Township of Silver Spring, County of Cumberland, Commonwealth of Pennsylvania.

DULEY ENACTED AND ORDAINED INTO LAW as Ordinance No. ____ of 2025 this ___ day of _____ 2025.

ATTEST:

_____
, Secretary

SILVER SPRING TOWNSHIP
BOARD OF SUPERVISORS

By:_____
, Chair

EXHIBIT E

Rooftop Lease

(see attached)

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

SOLAR ROOFTOP LEASE

(Carlisle, Pennsylvania)

This SOLAR ROOFTOP LEASE (this "**Lease**") is entered into and is effective as of January 6, 2025 (the "**Effective Date**") by and between, PA 180 Kost Rd LLC, a Delaware limited liability company, with an address of c/o New York Life Real Estate Investors, 51 Madison Avenue, 19th Floor, New York, NY 10010 ("**Landlord**"), and SILVER SPRING KOST CSG 1 LLC, a Pennsylvania limited liability company, with an address of c/o Dimension Energy, 3050 Peachtree Road, Suite 460, Atlanta, GA 30305 ("**Tenant**").

RECITALS

WHEREAS, Tenant desires to lease a certain area of the rooftop ("**Rooftop**") of the building (the "**Building**") located on the property (the "**Property**") with an address commonly known as 180 Kost Road, Carlisle, Pennsylvania 17015, to construct, install, operate, repair, replace, remove and maintain the "Solar Facilities," as that term is defined below under the conditions described herein. The Property is as more particularly described on **Exhibit A** attached hereto. Landlord is the owner of the Property and the Building.

WHEREAS, in connection with the foregoing, Landlord desires to lease to Tenant those certain portions of the Property as described and under the terms and conditions herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows.

1. Lease of Leased Premises.

1.1. Defined Terms. Defined terms shall have the meanings set forth herein, whether or not such terms are used before or after the definitions are set forth.

1.2. Leased Premises. Landlord shall deliver the Leased Premises to Tenant on the Effective Date. The date upon which the Leased Premises is delivered to Tenant in accordance with the terms of this Lease shall be referred to herein as the "**Delivery Date**". Subject to the terms and conditions of this Lease, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, a portion of the area on the rooftop of the Building, as set forth and depicted in blue on **Schedule "A"** attached hereto (hereinafter referred to as the "**Leased Premises**"). The lease of the Leased Premises shall include the non-exclusive benefit of all right, title, and interest of Landlord in and to all easements, rights, privileges, and appurtenances to the same belonging or in any way appertaining to the Leased Premises, subject in all cases to the terms and conditions thereof.

1.3. Common Areas. Subject to Section 4.4, the "Tenant Parties" (as that term is defined below) shall be entitled to the non-exclusive use of the "Common Areas" (as that term is defined below) during the Term solely to the extent such use is necessary for Tenant's installation,

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maintenance, operation and removal of the Solar Facilities, in common with Landlord and with other persons authorized by Landlord from time to time to use the Common Areas. "**Common Areas**" shall mean designated parking areas (as may be expressly limited herein), driveways and access roads, entrances and exits, and landscaped areas. Tenant's access to the Common Areas shall be subject to any reasonable security measures or security protocols required by tenants of the Building (collectively, the "**Building Tenant Security Measures**"), provided that in no event shall any such Building Tenant Security Measures unreasonably restrict or modify Tenant's right of reasonable access to the Leased Premises, the License Areas or the Parking Areas or Tenant's right to use the Leased Premises and the License Areas for the Permitted Use and in no event shall Tenant be obligated to comply with any such Building Tenant Security Measures unless Landlord or the applicable building tenant has provided to Tenant written details of any such Building Tenant Security Measures. Subject to the terms of this Lease, Tenant shall not materially and adversely impact any building tenant's use and occupancy of the Building or the Property. Tenant hereby acknowledges that Landlord has granted exclusive rights to portions of the Property designated on Schedule J, attached hereto (the "**Exclusive Use Areas**"). Tenant shall not access or use the Exclusive Use Areas at any time. Notwithstanding the foregoing, however, Landlord shall provide Tenant with up to fifteen (15) car parking spaces at the Property during the performance of Tenant's Work, and with up to two (2) car parking spaces at the Property during the time Tenant is performing any repairs and maintenance at the Leased Premises, in an area selected by Landlord from time to time

1.4. Acceptance and Use of Leased Premises. Subject to Section 1.3, Tenant shall have the ongoing right to inspect the Leased Premises, the Property and the Rooftop during the Development Term. In connection with the foregoing, following the Effective Date, upon Tenant's request, Landlord shall cooperate with Tenant, at its sole cost and expense, to allow Tenant the right to consult with any roof manufacturers that have provided Landlord with an active roof warranty and to ensure any such warranty is maintained during the construction and installation of the Solar Facilities. Subject to the foregoing, and Tenant's right to inspect the Leased Premises during the Development Term in accordance with the terms of this Lease, Tenant shall accept the Leased Premises and the Property in its condition as of the Delivery Date. Landlord has made no representation or warranty as to the suitability of all or any part of the Property (including, without limitation, the Leased Premises) for the conduct of Tenant's use as provided herein, and Tenant waives any implied warranty that all or any part of the Property (including, without limitation, the Leased Premises) is suitable for Tenant's intended purposes. The taking of possession of the Leased Premises on the Delivery Date shall be presumptive evidence that Tenant accepts the Leased Premises and that the Property (including the Leased Premises) is in good condition as of the Delivery Date. Notwithstanding the foregoing, however, Tenant shall have the obligation, in concert with Landlord, to consult with any roof manufacturers, at Tenant's sole cost and expense, that have provided Landlord with an active roof warranty to confirm that the roof has the benefit of such warranty and to ensure any such warranty is maintained during the construction and installation of the Solar Facilities.

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TENANT ACKNOWLEDGES AND AGREES THAT IT IS TAKING THE LEASED PREMISES AND THE LICENSED AREAS (AS HEREINAFTER DEFINED) "AS IS". WITHOUT LIMITING THE FOREGOING, (I) LANDLORD EXPRESSLY DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS AS TO THE CONDITION OF THE PROPERTY, THE BUILDING, THE ROOFTOP, OR LEASED PREMISES (INCLUDING WITHOUT LIMITATION THAT THE LEASED PREMISES OR THE LICENSED AREAS ARE SUITABLE FOR THE PERMITTED USE HEREUNDER OR FOR THE INSTALLATION OF THE SOLAR FACILITIES OR AS TO THE CONDITION OF ANY ELECTRICAL OR TELEPHONE SERVICES SERVING THE PROPERTY OR THE BUILDING), AND (II) TENANT ACKNOWLEDGES AND AGREES THAT, LANDLORD HAS MADE NO REPRESENTATION OR WARRANTY AS TO THE CONDITION OF THE LEASED PREMISES OR PROPERTY AND THAT TENANT IS SOLELY RELYING UPON ITS OWN INSPECTION OF THE PROPERTY AND LEASED PREMISES IN ENTERING INTO THIS LEASE.

Following the Delivery Date, Tenant, at its sole expense, shall comply with all federal, state and local laws, judgments, ordinances, regulations, codes, directives, permits, licenses, covenants and restrictions now or hereafter applicable to all or any portion of the Property (including, without limitation, the Leased Premises and the Licensed Areas) and the Solar Facilities including, without limitation, municipal by-laws, land use and zoning laws, occupational health and safety laws and Environmental Requirements (as defined below) (collectively, "**Legal Requirements**"). Furthermore, Tenant shall, at its expense, make any alterations or modifications to the Leased Premises necessary in order to comply with the Legal Requirements related to Tenant's specific use or occupancy of the Leased Premises. Landlord shall, at its sole cost and expense, comply with all Legal Requirements relating to the Building and the Common Areas, provided that compliance with such Legal Requirements is not the responsibility of Tenant under this Lease and is unrelated to the Solar Facilities, solely to the extent that Landlord's failure to comply therewith would prohibit Tenant from constructing, operating or maintaining the Solar Facility, or would unreasonably impair the safety of Tenant's employees or create an unreasonable health hazard for Tenant's employees. The removal and disposition of any portion of the Solar Facilities during the Term and the removal and disposition of all the Solar Facilities of the expiration of the Term or upon the sooner termination of the Term due to default by Tenant hereunder, as required by Section 6.3 below, shall be done in compliance with all Legal Requirements.

1.5 Solar Facilities. Except as expressly set forth herein, Tenant shall directly pay for all costs in connection with the construction, installation, operation, maintenance, repair, replacement, removal and disposition of the Solar Facilities, which may include integrated energy storage services. The "**Solar Facilities**" or "**Solar Facility**" shall consist of and include all photovoltaic solar panels, mounting systems, inverters, transformers, integrators and related infrastructure, and all electrical lines and conduits required to collect and transmit electrical energy to the location at which the Solar Facility interconnects with the local electric distribution system and

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such additional utility lines, cables, conduits, transformers, wires, meters, monitoring equipment and other necessary and convenient equipment and appurtenances common to such a facility, including but not limited to those items listed below in Sections 1.5.1 through 1.5.4 and in accordance with the technical specifications of such Solar Facilities together with a diagram of the same is set forth on **Schedule "A-1"** attached hereto:

1.5.1 Solar modules, racking, integrated energy storage services where applicable, and other items necessary to secure the Solar Facilities to the Rooftop, together with all conduits, combiner boxes, wiring, and other related connections to connect the Solar Facilities to each other and the "**Equipment**" (which means those items described below in Sections 1.5.2 through 1.5.4);

1.5.2 Inverters and step-up transformers necessary to convert the electricity produced from the Solar Facilities from direct current (DC) to alternating current (AC), and transform the voltage of such alternating current to the voltage required to feed the local electricity grid;

1.5.3 All associated equipment necessary to transfer the electricity generated by the Solar Facilities to the local electricity grid including but not limited to all cables, conduits, and related transmission lines; and

1.5.4 A data acquisition system, a telecommunications system, an antenna, and network connections necessary to transfer data from the Solar Facilities to the applicable equipment, and related lines to provide a supply of electricity to the data acquisition system and the telecommunications system, as more particularly set forth on **Schedule "A-1"** attached hereto.

1.5.5 Subject to the terms of this Section 1.5.5, Landlord or any other tenant or occupant of the Building shall have the right to use all portions of the Property (including the roof of the Building and parking lot that are outside of, or under, the Leased Premises and the License Areas (collectively, the **"Reserve Areas"**) in Landlord's reasonable discretion including, without limitation, for heating, ventilation and air conditioning units, antennas and other communication equipment, water collection facilities and/or such other equipment as Landlord shall reasonably deem necessary or appropriate (such equipment individually, the "**Landlord Improvement**" and collectively, the "**Landlord Improvements**"). Landlord shall not have the right to install, any Landlord Improvements on the Leased Premises or the Licensed Areas. Landlord shall have the right to repair and maintain the Landlord Improvements existing on the Property (including the entirety of the roof of the Building within) as of the Effective Date in the Reserve Areas and/or install new Landlord Improvements in the Reserve Areas, provided that at any time during the Term: (a) if Landlord desires to (i) install a new Landlord Improvement; or (ii) makes changes to or replace an existing Landlord Improvement; and (b) it is reasonably determined by Tenant that the installation of new Landlord Improvement or changes to or replacement of any existing Landlord Improvement will adversely impact the production of the Solar Facilities; then Landlord shall provide Tenant with plans and specifications for (x) the new Landlord Improvements, or (y) any changes to or the replacement

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of any existing Landlord Improvements and allow Tenant the opportunity to review any such plans and specifications. Further, Landlord shall use commercially reasonable efforts to address any reasonable concerns raised by Tenant regarding the potential effect of any new Landlord's Improvements or changes to or replacement of any existing Landlord Improvements on the Solar Facilities. Tenant's review rights hereunder do not grant Tenant any approval rights over any new Landlord Improvements or any changes or replacements to any existing Landlord Improvements. In connection with the foregoing, and notwithstanding any provision to the contrary set forth herein, Landlord hereby agrees not to introduce any structures, landscaping or other objects within the Reserve Areas that will unreasonably impede or affect Tenant's access to the Leased Premises or the Solar Facilities, unless Landlord is obligated to construct any such structures, landscaping or other objects by Legal Requirements or under any lease, easement agreement, covenants, conditions and restrictions agreement existing as of the Effective Date disclosed by Landlord to Tenant prior to the Effective Date. Additionally, notwithstanding anything to the contrary contained herein, to the extent that Landlord makes changes to or replaces existing Landlord Improvements, installs new Landlord Improvements or introduces structures, landscaping or other objects within the Reserve Area that impact the production from the Solar Facilities, Tenant shall be entitled to Lost Energy Revenue for the evidenced diminution in production from the Solar Facilities.

1.6 Unlisted Equipment; Access. Tenant's subsequent installation of any particular item of equipment or related connection not specifically set forth in Sections 1.5.1 through 1.5.4 above and **Schedule "A-1"** (collectively, the "**Unlisted Equipment**") shall be subject to Landlord's prior written approval, such approval not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, if said installation or alteration involves equipment that is substantially similar to, and occupies substantially the same area as, that equipment defined in Sections 1.5.1 through 1.5.4 and **Schedule "A-1"**, Landlord's prior written approval shall not be required.

1.7 Licenses

1.7.1 Cable License. Subject to the terms and conditions of this Lease, Landlord hereby grants Tenant a non-exclusive license to use throughout the Term, and Tenant hereby accepts from Landlord, a license to use: (a) a portion of the Building's riser systems and chaseways (other than those located in spaces demised to other tenants); and (b) the area depicted on **Schedule "A-3"** attached to this Lease (the **"Cable License"**); which areas shall be referred to herein as the "**Cable License Area**," for the purposes of installing, operating, maintaining, repairing, removing and replacing cables, conduits, network connections, data acquisition and telecommunications lines and related transmission lines, all of which shall be used in connection with the construction, maintenance and operation of the Solar Facilities. Tenant shall exercise reasonable care and reasonable consideration in entering upon the Cable License Area so as to not unreasonably interfere with the use and enjoyment of the Property by Landlord and Landlord's tenants or occupants, and Tenant shall promptly repair any damage to the Cable License Area actually caused by such

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Tenant's entry or as a direct result of such activities by Tenant. The Cable License granted herein shall bind Landlord and its successors under this Lease; provided, however, that the term of the Cable License shall be concurrent with the Term of this Lease, including any extensions thereof, and the Cable License shall expire or terminate automatically upon the expiration or termination of this Lease (subject to extension during the Removal Period). The Cable License shall be irrevocable for as long as this Lease is in effect. Furthermore, Landlord shall keep the Cable License Area free of unreasonable obstruction and shall not construct or place in or on the Cable License Area any landscaping, trees, bushes, buildings or other structures of any kind ("**Improvements**") in a manner which may unreasonably interfere with or damage the cables, conduits and related transmission lines lying within the Cable License Area and/or interfere with Tenant's access to or use of such lines.

1.7.2 Ground License Area. Subject to the terms and conditions of this Lease, Landlord hereby further grants Tenant an exclusive license to use, and Tenant hereby accepts from Landlord, a license to use an area of the land serving the Building (the "**Ground License Area**"), which Ground License Area is set forth with greater particularity on **Schedule "A-2"** attached hereto (the "**Ground License**") for the purposes of installing, operating, maintaining, repairing, removing and replacing (a) Tenant's data acquisition system and telecommunications system; and (b) the Equipment; all of which shall be used in connection with the operation of the Solar Facilities. Tenant shall exercise reasonable care and reasonable consideration in entering upon the Ground License Area so as to not unreasonably interfere with the use and enjoyment of the Property by Landlord and Landlord's tenants or occupants, and Tenant shall promptly repair any damage to the Ground License Area caused by Tenant's entry or as a result of such activities by Tenant. The Ground License granted herein shall bind Landlord and its successors under this Lease; provided, however, that, subject to extension during the Removal Period, the term of the Ground License shall be concurrent with the Term of this Lease and the Ground License shall expire or terminate automatically upon the expiration or termination of this Lease. The Ground License shall be irrevocable for as long as this Lease is in effect (subject to extension during the Removal Period). Furthermore, Landlord shall keep the Ground License Area free of unreasonable obstruction and shall not construct or place any Improvements in or on the Ground License Area in a manner which may unreasonably interfere with or damage the Equipment located within the Ground License Area and/or interfere with Tenant's access to or use of such Equipment or the Ground License Area. In addition, Landlord shall not permit any other party to use the Ground License Area during the Term (subject to extension during the Removal Period) of this Lease.

1.7.3 Construction License Area. Landlord hereby further grants to Tenant, and Tenant hereby accepts from Landlord, a non-exclusive license to use an area of the Property serving the Building (the "**Construction License Area**"), which the Construction License Area is set forth with greater particularity on **Schedule "A-4"** attached hereto (the "**Construction License**") for use as a laydown and construction staging area and for temporary storage commencing on the Effective Date and expiring on the date which the Tenant's Work (as that term is defined below) is

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complete (the **"Construction Period"**). Tenant shall provide written notice to Landlord that Tenant's Work has been completed. Subject to Legal Requirements, Tenant shall have access to the Construction License Area 24 hours per day, 7 days per week during the Construction Period only. Subject to the provisions of Section 1.9 below, the Construction License shall be irrevocable during the Construction Period provided the Lease has not been otherwise terminated pursuant to the terms hereof. Tenant agrees to work in good faith with Landlord by Landlord's tenants or occupants to minimize any unreasonable interference to the extent reasonably possible with the operations of the Building or use of the Building during the Construction Period. Notwithstanding anything to the contrary set forth elsewhere in this Lease, except for damage due to Landlord's negligence or willful misconduct, Landlord shall have no liability whatsoever in connection with property or equipment located in the Construction License Area, and Tenant shall indemnify Landlord for any and all claims arising from the presence and maintenance of such property or equipment unless such claim is the result of the negligence or willful misconduct of Landlord or Landlord's employees or agents. If Tenant requires use of the Construction License Area under this Lease after the Construction Period for which Tenant determines, in Tenant's reasonable judgment, that a staging area is necessary in order to perform such action, Landlord shall use commercially reasonable efforts to provide an adequate staging area available to Tenant upon Tenant's request therefor; provided Landlord shall in no event be in default in the event Landlord is not able to provide such staging area to accommodate Tenant's requirements. Upon the expiration of the Construction Period, Tenant, at Tenant's sole cost and expense, shall, within five (5) calendar days, surrender the Construction License Area to Landlord in the same condition as the date Tenant first occupied the Construction License Area excepting any reasonable wear and tear. Notwithstanding the foregoing, the Construction License shall be automatically reinstated during any Removal Period.

1.7.4 Ladder License. Subject to Legal Requirements (including governmental permits), Landlord hereby grants to Tenant, and Tenant hereby accepts from Landlord, a non-exclusive license to use the area set forth in **Schedule "A-5"** (the "**Ladder License**") to access the Rooftop with a not-permanently affixed ladder (the "**Ladder**"). The Ladder shall be provided by Tenant at its sole cost and expense and shall be used pursuant to any applicable governmental approvals or permits. The term of the Ladder License shall be concurrent with the Term of this Lease, including any extensions thereof, and shall terminate automatically on the expiration or earlier termination of this Lease, provided, however, that Tenant shall be entitled to use the Ladder License during the Removal Period. Tenant shall be responsible for restricting access to the Ladder by means as Tenant reasonably determined by Tenant.

1.7.5 Other Terms. The Cable License Area, Ground License Area, Ladder License Area and Construction License Area hereinafter collectively referred to as "**License Areas**".

1.8 Ownership. Landlord and Tenant agree that: (i) Landlord is the legal owner of the Property and the Building (including, but not limited to, the Rooftop, Ground License Area, Cable License Area, and Construction License Area) and (ii) Tenant is and shall remain the legal owner of

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the Solar Facilities and that the Solar Facilities are and shall remain the personal property of Tenant and that no part of it shall become or be deemed a fixture, notwithstanding the manner in which the Solar Facilities are or may be attached to the Building, the Property, the Rooftop, the Ground License Area, Cable License Area and the Construction License Area or any part of the aforementioned. In connection with the foregoing, Landlord hereby waives all contractual, statutory and constitutional liens held by Landlord on the Solar Facilities or any other personal property, goods, equipment, furnishings, and other personal property of Tenant to secure the obligations of Tenant under this Lease. Landlord reserves the right to grant such other licenses as Landlord determines in its sole discretion, provided that any such licenses do not affect the Permitted Use, Tenant's access to the Premises and the Licensed Areas or any rights of Tenant under this Lease.

1.9 Relocation of Solar Facilities and License Areas. Tenant acknowledges that Landlord may lease space within the Building to new tenants or perform other improvements at the Property, and that Landlord, to accommodate such new tenants or to undertake such improvements, may need to relocate (i) the License Areas and/or (ii) the Solar Facilities to another portion of the Property and/or the roof of the Building (such portion of the Property or roof of the Building shall be referred to herein as the "**Relocation Premises**"). In connection with the foregoing, the following shall apply:

1.9.1 In the event that Landlord desires to relocate the License Areas or the Solar Facilities pursuant to the terms of this Section 1.9, then Landlord notify Tenant of the same by delivering written notice (the "**Relocation Notice**") to Tenant. Following Landlord's delivery of the Relocation Notice, Landlord and Tenant agree to reasonably cooperate to attempt to find an alternative location for the License Areas, Solar Facilities and Equipment that is suitable for the Permitted Use (defined below), as designated by Landlord, with input of Tenant and subject to the terms of this Section 1.9.1, below, in the case of the License Areas, and as mutually determined by Tenant and Landlord in their reasonable discretion in the case of the Solar Facilities, on the Property. In connection with the foregoing, Landlord hereby acknowledges and agrees that (i) the Relocation Premises must provide at least the same level of insolation as the original Leased Premises; (ii) the relocation to the Relocation Premises must be permitted under applicable Legal Requirements and any permits, conditions of approval or other approvals that Tenant has received in connection with the Permitted Use at the Property, (iii) the location of the Relocation Premises shall be subject to Tenant's reasonable approval, and (iv) the Relocation Premises shall be capable of supporting the same size Solar Facility as was originally in operation on the Leased Premises. In no event shall Tenant be required to remove more than twenty percent (20%) of the Solar Facility at a single time in connection with a relocation under the terms of this Section 1.9, and any relocation of the Solar Facility than requires more than twenty percent (20%) of the Solar Facility to be removed shall be completed in a phased manner so that at no one time shall more than twenty percent (20%) of the Solar Facility be removed. Landlord shall use reasonable efforts to not require the relocation of the Solar Facilities pursuant to the terms of this Section 1.9 during High Insolation Periods. Landlord and Tenant shall work in good faith with minimize the disruption to the Solar Facility during any

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relocation pursuant to the terms hereto.

1.9.2 Landlord shall provide at least one hundred twenty (120) days' written notice prior to the date on which it desires to cause such relocation of the Leased Premises and/or the License Areas to occur.

1.9.3 In the event of a relocation of the Leased Premises and/or the License Areas pursuant to the terms of this Section 1.9, Tenant shall, at Landlord's sole cost and expense, cause the relocation of the Solar Facility (including the Equipment) from the Leased Premises and License Areas to the Relocation Premises. All actual out-of-pocket costs incurred by Tenant in connection with relocating the Solar Facilities and the Equipment from the Leased Premises and License Areas to the Relocation Premises, including, costs to remove and reinstall the Solar Facilities and the Equipment and to repair any damage to the Leased Premises and License Areas, shall be due and payable by Landlord to Tenant within thirty (30) days from Landlord's receipt of an invoice for such amount from Tenant. Landlord shall also reimburse Tenant for all Lost Energy Revenue during the time all or a portion of the Solar Facilities is out of operation as a result of the relocation of the Solar Facilities (and the Equipment) to the Relocation Premises.

2 Term of Lease.

2.1 Term. The "**Term**" of the Lease shall consist of the Development Term and the Operating Term. The "**Development Term**" shall mean that period of time commencing on the Effective Date and terminating on the earlier of (i) the first (1st) day of the Operating Term, or (ii) one (1) year following the Delivery Date, provided that Tenant shall have the right to extend the Development Term for a period of six (6) months by delivering written notice to Landlord on or before the date that is twelve (12) months following the Delivery Date. The "**Operating Term**" means that period of time commencing on the earlier of (a) the expiration of the Development Term, or (b) the Commercial Operation Date (defined below and also referred to herein as the "**COD**") and terminating on the twentieth (20th) anniversary of the Commercial Operation Date. In connection with the foregoing, Tenant hereby acknowledges and agrees that Tenant shall be obligated to commence paying Rent as of the day immediately following the expiration of the Development Term regardless of whether the Commercial Operation Date has occurred. As used herein, "**Commercial Operation Date**" means that (i) Tenant has obtained all necessary licenses, permits, and approvals in compliance with all Legal Requirements for the installation and operation of the Solar Facilities, (ii) the Solar Facilities have been installed in accordance with all Legal Requirements and are connected to the distribution system for the local utility, (iii) the Solar Facilities are ready and able to generate and supply electricity to the distribution system for the local utility on a continuous basis, (iv) all related facilities and rights, if any, have been completed or obtained to allow regular operation of the Solar Facilities, and (v) if applicable and to the extent required, the local utility has approved interconnection with the distribution system to allow regular operation of the Solar Facilities.

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Promptly following the occurrence of the foregoing Landlord and Tenant shall confirm in writing the Term of the Lease by delivering the Commencement Date Certificate in substantially the same form as that attached hereto as **Schedule B**.

2.2 Development Completion Certification. Promptly after the Effective Date, Tenant shall use diligent efforts to complete all requirements for issuance of a Development Completion Certification, as defined below. Tenant shall coordinate all access and entry to the Building and Leased Premises during the Development Term with Landlord's property management, and shall not conduct any invasive studies, store or stage construction materials or commence improvements without Landlord's prior written approval in each instance. The "**Development Completion Certification**" shall mean written notification from Tenant to Landlord certifying that Tenant is not electing to terminate the Lease on the grounds set forth in Section 2.4 below and that Tenant is electing to proceed with the construction of the Solar Facility.

2.3 Termination During Development Term by Tenant. Notwithstanding any provision to the contrary set forth herein, at any time during the Development Term (but in all events before Tenant delivers the Development Completion Certification to Landlord), Tenant may terminate this Lease, after giving not less than ten (10) days' notice to Landlord, if:

(a) Any governmental agency denies a request by Tenant for or revokes a permit, license, or approval that is required for Tenant to construct or operate the Solar Facilities on the Leased Premises;

(b) Tenant determines, in its sole and absolute discretion, that any condition exists in or about the Property or any technical problems exist, which problems cannot reasonably be corrected, and which preclude Tenant from using the Leased Premises for its intended purpose;

(c) Tenant determines, in its sole and absolute discretion, that Tenant does not have acceptable and legally enforceable means of ingress and egress to and from the Leased Premises;

(d) Utilities necessary for Tenant's use of the Leased Premises are not available to the Leased Premises;

(e) The Leased Premises are damaged or destroyed to an extent that prohibits or unreasonably interferes with Tenant's use of the Leased Premises;

(f) Tenant has not received authority to interconnect from the utility;

(g) Tenant is unable to obtain title insurance commitment with respect to the Leased Premises issued by a nationally-recognized and licensed title insurance company ("**Title Company**") in form and substance reasonably acceptable to Tenant for which Landlord shall

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cooperate in executing and providing an owner affidavit, corporate resolution, lessor estoppel and other documents as reasonable required by the Title Company;

(h) Any lender holding a pre-existing mortgage or deed of trust which encumbers the Property or Building is unwilling to execute a subordination, non-disturbance and attornment agreement ("**SNDA**") in form and substance reasonably acceptable to Tenant for which Landlord will reasonably cooperate and provide its consent;

(i) If any governmental approval or utility approval issued to Tenant contains an unreasonable term or condition or is canceled, expires, lapses, or is otherwise withdrawn or terminated;

(j) If Tenant reasonably determines that such governmental approvals or utility approvals may not be obtained in a reasonably timely manner;

(k) If Tenant is unable to obtain a contract from the Pennsylvania Public Utility Commission;

(l) If Tenant determines, in its sole discretion, that the compensation awarded by the Pennsylvania Public Utility Commission is insufficient to support the construction and operation of the Facility; or

(m) In the event of a Landlord breach or default under this Lease beyond any applicable notice and cure period.

For purpose of clarification, Tenant shall not have the right to terminate this Lease after delivering the Development Completion Certification to Landlord.

In the event of termination by Tenant pursuant to this provision, Tenant shall be relieved of all further liability hereunder. Any rental fees paid prior to said termination date shall be retained by Landlord.

If the Development Completion Certification has not been issued and received by Landlord within eighteen (18) months after the Effective Date, then Tenant may terminate this Lease upon thirty (30) days written notice to Landlord.

2.4 Termination by Landlord.

2.4.1 Structural Due Diligence Materials. Tenant shall deliver to Landlord for Landlord's review Tenant's structural due diligence materials (the "**Structural Due Diligence Materials**") within two (2) months following the Effective Date (the "**Structural Due Diligence Materials Deadline**"). If Tenant does not deliver the Structural Due Diligence Materials to Landlord on or before the Structural Due Diligence Materials Deadline, then Landlord shall have the right to

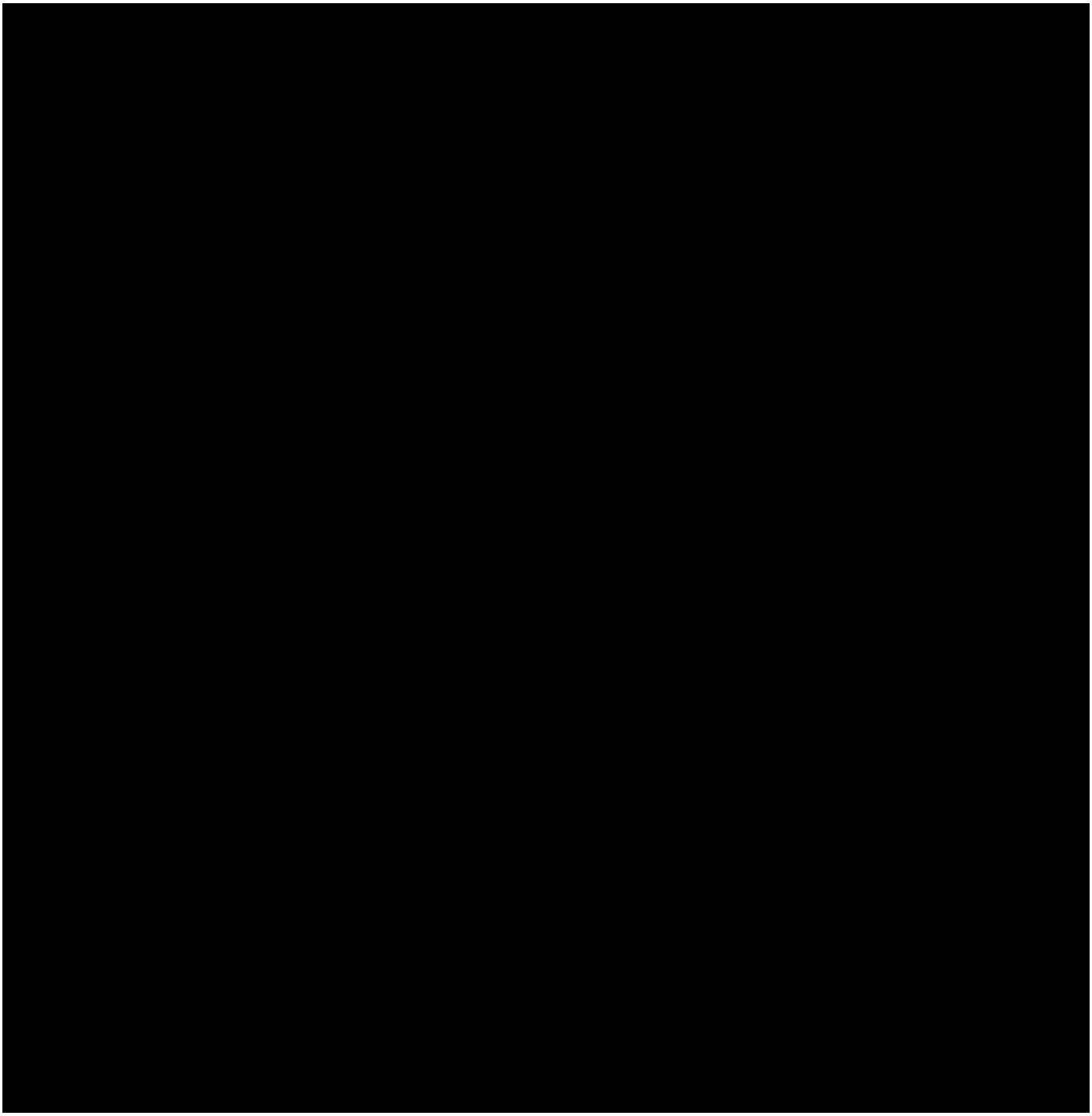
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send a notice to Tenant requesting the same following the Structural Due Diligence Materials Deadline. If Tenant does not deliver the Structural Due Diligence Materials to Landlord within thirty (30) days following receipt of such notice, then if Tenant fails to provide the same within five (5) days following receipt of a second notice from Landlord requesting the Structural Due Diligence Materials, such failure shall be an automatic Event of Default by Tenant under the terms of this Lease. Landlord shall within forty-five (45) days (the "**Structural Diligence Response Date**") following Tenant's delivery of the structural due diligence materials, either (i) approve (which approval shall not be unreasonably withheld, conditioned or delayed) the structural due diligence materials by delivering written notice to Tenant, or (ii) if in Landlord's reasonable discretion the structural due diligence materials do not meet Landlord's reasonable criteria for safe structural use of the Leased Premises for Tenant's intended purpose, Landlord shall notify Tenant of the same in writing and such notification shall include a detailed description of the due diligence materials that do not meet Landlord's criteria for safe structural use. The notice referenced in items (i) and (ii) above shall be referred to herein as the "**Structural Diligence Response Notice**"). In the event that Landlord does not deliver the Structural Diligence Response Notice to Tenant on or before the Structural Due Diligence Response Date, then Tenant's structural due diligence materials submitted to Landlord shall be deemed approved. In the event that Landlord notifies Tenant that the structural due diligence materials do not meet Landlord's reasonable criteria for safe structural use of the Leased Premises, then thereafter the parties shall work together in good faith to address Landlord's reasonable concerns. If the parties cannot reach an agreement to address Landlord's reasonable concerns within thirty (30) days following Tenant's receipt of Landlord's concerns set forth in the Structural Diligence Response Notice (the "**Outside Agreement Date**"), then Landlord shall have the right to terminate this Lease by delivering written notice of such termination within ten (10) days following the Outside Agreement Date.

2.4.2 Landlord's Termination Right. If the Development Completion Certification has not been issued and received by Landlord within eighteen (18) months after the Effective Date, then Landlord may terminate this Lease upon thirty (30) days written notice (the **"Landlord Termination Notice")** to Tenant, provided, that Tenant shall have the option to nullify such termination by commencing the payment of Rent within thirty (30) days following Tenant's receipt of the Landlord Termination Notice and the Rent Commencement Date shall be deemed to have commenced on the date such Landlord Termination Notice is received by Tenant.

2.5 Landlord Termination for Convenience. Notwithstanding anything to the contrary contained herein, Landlord shall have the right to terminate this Lease at any time during the Operating Term for any or no reason at all upon at least ninety (90) days prior written notice. Landlord shall pay to Tenant the Termination Payment (defined below) in the amount set forth on **Schedule "I"** whereupon this Lease shall terminate, and Tenant shall remove the Solar Facility in accordance with **Section 6.3**. For the avoidance of doubt, Landlord's election to terminate this Lease pursuant to this **Section 2.5** shall be of no force and effect unless and until Landlord pays to Tenant the Termination Payment.

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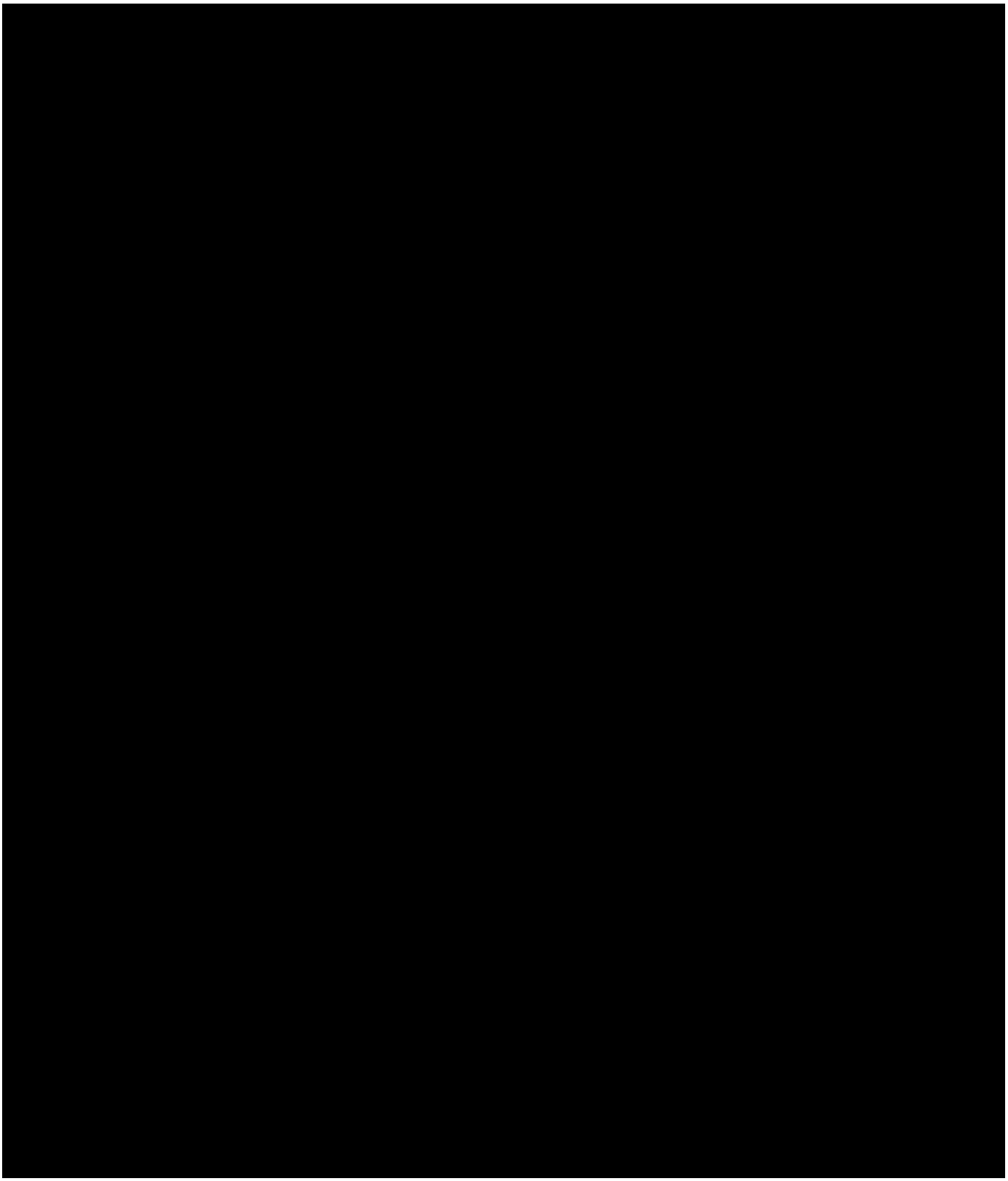
3.3 Taxes. Landlord shall be responsible for all ad valorem personal property or real property taxes levied against the Property, the Building and personal property located thereon, except that Tenant shall be responsible for ad valorem personal property, occupancy tax or real property taxes levied against the Solar Facilities. In no event shall Tenant be responsible for the payment of any and all taxes or assessments required to be paid by Landlord in connection with its ownership and/or management of the Building or the Property; provided, however, to the extent that

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any such taxes or assessments are levied against Landlord expressly due to the existence of, and directly attributable to, the Solar Facilities installed by Tenant as provided herein as a result of an increase in the appraised value (as applicable, the "**Solar Facilities Tax**"), then, subject to the terms of Section 3.3, below, Tenant shall pay to Landlord an amount equal to the Solar Facilities Tax no later than thirty (30) days following Tenant's receipt of an invoice therefore from Landlord, which invoice shall document such Solar Facilities Tax with a copy of the subject tax bill and other reasonable back-up documentation demonstrating that the increased taxes or assessments are directly attributable to the Solar Facilities. In connection with the foregoing, if Landlord is assessed any taxes related to the existence of the Solar Facilities on the Property, Landlord shall immediately notify Tenant and provide Tenant with reasonable written evidence therefor. Landlord and Tenant shall, as applicable, reasonably cooperate in contesting any such assessment; provided, however, that Tenant and Landlord shall timely pay such taxes to avoid any penalties or interest on such taxes and, contemporaneous with such payment, provide evidence of payment thereof to Landlord. In the event Landlord or Tenant contests the assessment of such taxes upon the Solar Facilities and Landlord receives a tax refund as a result thereof, Landlord shall disburse the proceeds thereof, net of any reasonable, out-of-pocket costs and expenses actually incurred by Landlord in asserting such contest, to Tenant in a timely manner following receipt thereof by Landlord.



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4 Use of the Leased Premises; Installation; Non-Exclusive Use.

4.1 Use of Leased Premises. Subject to Section 1.3, Tenant shall only use the Leased Premises during the Term including any extensions thereof (including the Removal Period) for the construction, installation, inspection, operation, maintenance, repair, replacement and removal of the Solar Facilities and the transmission of electricity therefrom and all other legal uses directly ancillary thereto (the "**Permitted Use**"). Tenant shall not use or permit the Leased Premises or the Property to be used for any purpose or purposes other than the Permitted Use without the prior written

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consent of Landlord, which consent may be withheld at Landlord's sole discretion. Landlord shall, within five (5) business days after Tenant's request, execute any application or other reasonable documentation that is required by any governmental authority in connection with the Permitted Use. Except items reasonably required by Tenant in connection with its operation and construction of the Solar Facilities (including but not limited to, small quantities of replacement parts and related sundry items), which items shall be stored in a safe and discreet manner within the Leased Premises, Tenant shall not store any materials in the Leased Premises or otherwise on the Property without Landlord's prior written consent in Landlord's sole discretion. Nothing herein shall be deemed to prohibit the secure, safe and discreet storage of items by Tenant or its agents in the Construction License Area during the Construction Period.

4.2 Tenant's Initial Installation of Solar Facilities. Landlord acknowledges that Tenant will be performing, and contracting for, the initial construction and installation of, the Solar Facilities (the "**Tenant's Work**"). Tenant's Work shall be conducted under the supervision of an engineering, procurement and constructing firm ("**EPC Contractor**") selected by Tenant. Tenant shall deliver to Landlord the name and address of Tenant's EPC Contractor and any other pertinent information about Tenant's EPC Contractor reasonably requested by Landlord in writing. During the performance of Tenant's Work, which shall occur prior to the Commercial Operation Date, Tenant and its agents, employees, and contractors shall have the right to access and use, without charge, the Leased Premises, the Cable License Area, the Common Areas, the Ground License Area, and the Construction License Area in accordance with the provisions of this Lease to the extent reasonably necessary to perform the Tenant's Work in accordance with the plan attached hereto as **Schedule C**. Tenant's Work shall comply with all applicable FM (Factory Mutual) Approval Standards at a minimum, unless Landlord elects that the Solar Facility not comply with FM Approval Standards. During the construction and installation of the Solar Facilities, Tenant shall have the right to permit its construction lender, Financing Parties and its representatives to access the Leased Premises, the Cable License Area, the Common Areas, and the Ground License Area to perform any inspections contemplated under Tenant's financing agreements with such parties. The lender's rights of access shall in no way exceed the access rights of Tenant as provided in this Lease. During the performance of Tenant's Work, Tenant shall not have an obligation to pay a fee in connection with the use of parking and/or any space that is used on the property for the placement of a crane. Tenant's Work shall conform to all requirements and the plans and specifications as described in **Schedule C**. Tenant will arrange for the construction of the Solar Facilities in a good, careful, proper and workmanlike manner in accordance with Prudent Utility Practices, all Legal Requirements and National Fire Protection Association ("**NFPA**") guidelines, codes and standards, and the requirement of Landlord's insurer that Tenant notify the applicable fire department of the Tenant's Work and provide the personnel of such fire department the opportunity to perform a walkthrough of the Building to become familiar with the Solar Facilities (the "**Insurance Requirements**"). Tenant's Work shall be conducted in a manner that will not jeopardize any warranty applicable to the Rooftop or Building. The Solar Facilities will, when completed, comply with Prudent Utility Practices, NFPA guidelines, Insurance Requirements, and all Legal Requirements. Upon completion of Tenant's Work, Tenant

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will obtain and deliver to Landlord a copy of applicable sign-offs from applicable agencies permitting the operation of the Solar Facility. In addition to the foregoing, upon such completion, Tenant will obtain and deliver to Landlord, final, unconditional releases or waivers of lien from Tenant's general contractor and any subcontractors or materialmen with contracts in excess of $25,000 who are performing work or supplying or fabricating materials in connection with Tenant's Work. Tenant shall also perform a full inspection of the Building roof (the "**Post-Inspection**") to document the condition of the Building roof after the Tenant's Work has been completed. Tenant shall provide Landlord with a copy of the report or other written documentation resulting from the Post-Inspection. Tenant shall pay all reasonable costs of the Post-Inspection and shall make any necessary repairs identified therein at its sole cost and expense. If Tenant's Work is not set forth on **Schedule "C"**, then the same shall be subject to Landlord's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed and Landlord's written response shall be provided within twenty (20) days following Tenant's request. Any change related to the Tenant's Work shall also require Landlord's prior written approval, which approval shall not be unreasonably withheld, and Landlord's written response shall be provided within twenty (20) days following Tenant's request. If Tenant so requests Landlord's approval of Tenant's Work or a change related to Tenant's Work and Landlord does not notify Tenant in writing of its consent or disapproval within twenty (20) days following Tenant's request of Landlord's approval of Tenant's Work or a change related to Tenant's Work, as applicable, Tenant shall send Landlord a second notice (the "**Second Notice**") which Second Notice shall include the following language "NOTE: FAILURE TO RESPOND WITHIN THE TIME PERIOD SET FORTH IN SECTION 4.2 WILL RESULT FOLLOWING THIS SECOND NOTICE IN A DEEMED APPROVAL". If Tenant sends the Second Notice and Landlord does not notify Tenant in writing of its consent or disapproval within five (5) Business Days after the Second Notice was given, Landlord shall be deemed to have consented to Tenant's Work or a change in Tenant's Work. In the event of the termination of this Lease by either Landlord or Tenant prior to the expiration of the Development Term, Tenant shall be obligated to remove and restore any Tenant Work installed to date and restore the affected areas of the Building and Landlord's Property to a condition existing prior to such work.

4.3 Mechanic's Liens. Landlord's Property (including, without limitation, the Leased Premises) shall at all times be free of liens for labor and materials supplied in connection with Tenant's Work. If at any time Landlord's Property or any portion thereof shall be encumbered by any mechanics' or other liens, charges or claims for the payment of money or otherwise, or any violations or other encumbrances of record directly related to Tenant's Work or any other matter pertaining to Tenant at the Leased Premises, then Tenant shall, within ten (10) business days after receipt of written notice of same or written request by Landlord, prove to the reasonable satisfaction of Landlord that every such lien has been fully paid, provided for, discharged or bonded. Without limiting Tenant's liability for failure to comply with this paragraph, if Landlord bonds or discharges any mechanic's or other lien upon Tenant's failure to do so, then, in addition to the cost of such bonding or discharging and all other costs and disbursements which Tenant would owe to Landlord in respect of same hereunder, Tenant shall also pay to Landlord Landlord's actual out-of-pocket

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reasonable outside legal fees incurred by Landlord in discharging or bonding over such lien. Tenant, at its sole cost and expense, shall procure and deliver to Landlord a final release of lien following completion of construction of the Solar Facilities from the EPC Contractor and any subcontractors who constructed the Solar Facilities in connection with the performance of the Tenant's Work. Notwithstanding anything to the contrary contained in this Section 4.3, nothing herein shall be deemed to prohibit Tenant from financing the Solar Facility in accordance with the provisions of this Lease, including, but not limited to, Section 12, below.

4.4 On Going Building Access. Subject to the Building Security Measures and the terms of Section 1.3 above, after completion of Tenant's Work, Tenant, its agents, employees and contractors shall have the right to access the Leased Premises, Cable License Area, the Common Area and Ground License Area, and shall have the right to temporarily use parking spaces serving the Building to park, but not store, Tenant's vehicles in the common parking areas serving the Building free of charge on a first-come, first-served basis, provided that Tenant shall not use more than one parking space at any time without Landlord's prior written approval and further provided there is no unreasonable interference with the access of Landlord or tenants to the Building parking lots, loading docks and truck courts. Such access shall be limited to such access as is necessary to maintain, operate, service, repair, replace, make Alterations (as defined below) to, and remove the Solar Facilities for the Term and Removal Period upon not less than forty-eight (48) hours prior notice to Landlord, which may be telephonic to Landlord and/or Landlord's property manager to a phone number or numbers designated by Landlord (except that no notice shall be required in case of an Emergency (as defined below), or if the parties hereto otherwise agree such notice is unnecessary) during reasonable and normal business hours (unless Landlord reasonably consents otherwise). An "**Emergency**" shall mean an event threatening immediate and material danger to people located on the Property, in the Building or immediate, material damage to the Property, Building, the Building's Systems or Building Structure or the Solar Facilities. Tenant shall have no right to access the interior of the Building. Notwithstanding anything to the contrary in this Lease, and subject to local requirements, access to the Leased Premises and/or License Areas by Tenant Parties shall be limited to exterior methods including a bucket lift or an exterior ladder and in no event shall the Tenant Parties have any right to access the Leased Premises or License Area through internal means without Landlord's prior written consent otherwise, which consent may be withheld at Landlord's sole discretion, unless local laws requires access be via the interior or there is an Emergency.

4.5 Non-Exclusive Use/Exclusive Use/Quiet Enjoyment. Landlord shall have the right to use, and to grant to third parties the right to use other portions of the Building and Property, provided, however, that such Landlord (or third-party) use shall not unreasonably interfere with (or preclude the timely installation or operation of) Tenant's Solar Facilities. Nothing contained herein shall be construed as granting to Tenant any property or ownership rights in the Building or Property, including the associated roof membrane attached thereto, other than those rights expressly set forth in this Lease, or to create a partnership or joint venture between Landlord and Tenant. Other than as permitted by Section 5.1 and 6.3 below, third parties, including Landlord's other tenants and

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occupants, may not use, enter, or otherwise have access to the Leased Premises, the Ground License Area, or the Ladder License. Landlord covenants that Tenant upon payment of the Rent and upon the due performance of the express covenants and agreements herein contained on Tenant's part to be performed, shall peaceably and quietly have, hold, and enjoy access to and the benefits of the Leased Premises during the Term for the Permitted Use.

4.6 Compatibility with Operations. Tenant shall use commercially reasonable efforts to ensure the Solar Facilities shall not unreasonably interfere with the operation of the Property and the Building, including, without limitation, window washing equipment, chiller units, cooling towers, the emergency generator, elevators, machine rooms, helipads, lightning protection systems, roof top antenna(s), ventilation shafts, if any, or any other parts of the Building or Property. Nothing in the foregoing sentence shall be deemed to hinder or prohibit Tenant from exercising its right to construct, maintain and operate the Solar Facility at the Premises.

4.7 Restrictions on Tenant's Use. Tenant will not store, place or otherwise locate on the Rooftop of the Building any item or equipment which would place undue pressure on the Rooftop and/or cause damage to the Property, Building or the roof membrane. Except as expressly provided otherwise in this Lease, or upon Tenant's receipt of Landlord's prior written consent, not to be unreasonably withheld, conditioned or delayed, Tenant shall not store any materials or equipment in the Common Areas or other areas of the Building or Property. Tenant shall promptly remove from the Leased Premises, at Tenant's sole cost and expense, any garbage, waste, and construction debris that might at any time be generated by Tenant, or its employees, agents, contractors or assigns.

4.8 Interference.

4.8.1 Landlord Interference. Landlord shall refrain from, and shall use commercially reasonable efforts to prevent the Landlord Parties (as that term is defined below in Section 7.1) from interfering, hindering, or in any way obstructing (collectively, a "**Landlord Interference**") Tenant's use or occupancy of the Leased Premises for the Permitted Use. In the event Landlord or the Landlord Parties cause a Landlord Interference, Landlord agrees to use its commercially reasonable efforts to eliminate such Landlord Interference within five (5) business days of Landlord receiving written notification thereof from Tenant (which notice shall specify in reasonable detail the circumstances and facts related to and alleged to have caused the Landlord Interference); provided, however, if the elimination of such Landlord Interference will reasonably take longer than five (5) business days to perform, Landlord shall commence curing such Landlord Interference within such five (5) business day period and shall diligently prosecute such work in connection therewith to completion, provided that such cure period shall not be extended beyond forty-five (45) days, if reasonable under the circumstances, from Landlord's receipt of written notice thereof. In the event that Landlord's lessees, licensees, or tenants at the Building are interfering, hindering, or in any way obstructing Tenant's use or occupancy of the Leased Premises for the Permitted Use and/or access to sunlight, then upon Tenant's delivery of written notice to Landlord of

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such interference by Landlord's lessees, licensees, or tenants at the Building, Landlord shall work in good faith with such lessees, licensees, or tenants at the Building, using commercially reasonable efforts, to eliminate such interference as soon as reasonably practical following Landlord receiving such written notification from Tenant, provided that in all events such interference shall be eliminated within forty-five (45) days following Landlord's receipt of Tenant's notice.

4.8.2 Tenant Interference. Tenant shall take commercially reasonable steps to ensure that Tenant Parties (as defined below) do not unreasonably interfere, hinder or any way obstruct, disturb or take any action that would constitute a nuisance (collectively, a "**Tenant Interference**") to the other tenants, lessees or licensees of the Building and/or Property during the installation and through the Term including any extensions thereof. In the event Tenant or Tenant Parties cause a Tenant Interference, Tenant agrees to use its commercially reasonable efforts to eliminate such Tenant Interference within five (5) business days of Tenant receiving written notification thereof from Landlord of the Tenant Interference (which notice shall specify in reasonable detail the circumstances and facts related to and alleged to have caused the Tenant Interference); provided, however, if the elimination of such Tenant Interference will reasonably take longer than five (5) business days to perform, Tenant shall commence curing such Tenant Interference within such five (5) business day period and shall diligently prosecute such work in connection therewith to completion, provided that such cure period shall not be extended beyond thirty (30) days, if reasonable under the circumstances, from Tenant's receipt of written notice thereof.

4.9 Energy Reporting and Statistics. Subject to the terms of this Section 4.9, Tenant shall reasonably cooperate with Landlord's efforts to obtain any third party energy certifications or incentives for the Property (e.g., LEED certification) and shall provide Landlord with the annual energy production generated by the Solar Facilities (collectively, "**Energy Certifications**"). As part of such cooperation, within fifteen (15) business days following Landlord's request, Tenant shall provide to Landlord (and to such third parties as Landlord may request, provided that such third parties have executed a commercially reasonable confidentiality agreement) data on the generation of electricity from the Solar Facilities in connection with Energy Certifications. Such request can be made by Landlord on an annual basis.

4.10 Third Party Approvals. Solely to the extent required by the terms of the applicable documents, Landlord will (i) seek to obtain the written consent of tenant(s) of the Building to expressly permit the installation of the Solar Facilities and any required access to the roof or other areas of the Property by Tenant (including the interior of the Building), if necessary or required by Legal Requirements, as set forth herein, and (ii) seek to obtain the written consent of the current holder of the Landlord Mortgage on the Property. The written approvals referenced in items (i) and (ii) above shall collectively be referred to herein as the "**Approvals**". As soon as reasonably possible after the Effective Date, Tenant shall provide to Landlord conceptual plans for the Solar Facilities (the "**Conceptual Design**") which show, at a minimum, (i) the approximate location and area of any installation to be made in the electrical room, if any, and of the size of any required new electrical

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room, if needed; (ii) the approximate location and size of any exterior area needed for vaults or transformers and of any trenching for any associated cabling; (iii) the approximate location and size of any construction laydown and storage area; (iv) the approximate number and location of parking spaces and location needed for contractors and employees during initial construction; and (v) a construction schedule detailing an estimated construction commencement date and duration of construction. Following request from Landlord, Tenant shall provide such additional information, reports or studies (such as, without limitation, structural loading studies) as may be reasonably requested by any third-party from whom consent is being sought. Landlord shall attempt to obtain the Approvals within forty-five (45) days after receipt of the Conceptual Design (the "**Approval Date**"), and Tenant agrees not to issue a notice to proceed to its EPC Contractor to commence construction of the Solar Facilities until Landlord has obtained the Approvals. In the event that Tenant elects to modify the Conceptual Design following the initial furnishing of same to Landlord, but prior to expiration of the Approval Date, Landlord shall have forty-five (45) days following such modification of the Conceptual Design to seek the Approvals. If Landlord has not obtained the Approvals and any associated recorded documents prior to the Approval Date, then, the Lease shall automatically terminate on the date that is thirty (30) days following the Approval Date, unless Landlord and Tenant elect to extend the Approval Date within such thirty (30) day period. If the Lease is terminated pursuant to the terms of this Section 4.10, then Tenant shall receive an immediate refund of any prepaid monies paid to Landlord hereunder, and thereafter neither party shall have any further liability to the other by reason thereof except for those provisions that expressly survive the termination of this Lease. Tenant hereby acknowledges and agrees that Landlord's approval of any Alterations to the extent set forth in Section 6.2 of this Lease may require additional third party consents or approvals, and that it shall not be deemed unreasonable for Landlord to disapprove of any proposed Alterations that are based on the reasonable objection of any third party whose consent or approval is required. If any third-party requires that Landlord pay a fee or reimburse such third party for any reasonable expenses incurred by such third-party in connection with the review undertaken by such third-party pursuant to the terms of this Section 4.10, then Tenant shall within thirty (30) days following receipt of invoices reflecting the request for any such fees or reimbursements, reimburse Landlord for such amounts in an amount not to exceed $3,000.00 in the aggregate.

5 Maintenance and Repair; Lost Energy Revenue.

5.1. Tenant Obligations. Except as set forth in Sections 15 and 16, during the Term, Tenant shall, at Tenant's sole cost and expense, keep the Solar Facilities in good order, repair, and condition throughout the Term, and promptly and adequately repair all damage to the Leased Premises, Property, and Building caused by Tenant, or any of Tenant's employees, agents, or contractors, other than ordinary wear and tear (which means wear and tear which would exist if Tenant had not constructed, installed, operated, or repaired the Solar Facilities on the Rooftop). Tenant shall cause the Solar Facilities to be inspected by a licensed service provider and cleaned in compliance with any NFPA guidelines, codes and standards. If Tenant fails to commence such replacement or repairs within thirty (30) days of receipt of written notice from Landlord, Landlord may, upon an additional ten (10) days prior written notice to Tenant, make such repairs and Tenant

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must reimburse Landlord for the actual third party costs of such repairs within thirty (30) days of receiving an invoice for such work from Landlord (which invoice shall be accompanied by reasonable back-up documents evidencing the costs incurred by Landlord), except in the event of an Emergency (provided that Landlord shall notify Tenant of such an Emergency within a reasonable time following the Emergency) in which case Landlord shall have the right to complete such repairs necessary to remove such Emergency situation without notice to Tenant, provided that Landlord shall notify Tenant of such Emergency promptly following the occurrence of the same.

In the event any maintenance and/or repair to the structural portions of the Building, including the foundation, roof structure (in each case, excluding the Solar Facilities), and all Common Areas (collectively, "**Building Structure**"), and associated roof membrane, or Building is required due to the existence of the Solar Facilities and related equipment connected thereto on the Leased Premises (as reasonably determined in writing by a qualified and licensed third-party structural engineer, reasonably approved by Tenant), or directly results from Tenant's access and/or use of the Leased Premises, or the Building, Tenant shall bear the sole, out-of-pocket cost and reasonable expense actually incurred by Landlord in performing repairs and/or maintenance in connection therewith. Tenant shall pay such cost no later than thirty (30) days following Tenant's receipt of invoice for such maintenance and repairs (which invoice shall be accompanied by reasonable back- up documents evidencing the costs incurred by Landlord).

5.2. Roof Repairs. Landlord shall not introduce any structures or objects upon or adjacent to the Leased Premises that will impede solar access to Solar Facilities. In the event that Landlord determines, in its commercially reasonable discretion, that a portion of the roof requires repair (a "**Roof Repair**") as opposed to a total Roof Replacement (defined in Section 5.4, below), and if such Roof Repair requires the partial or complete disassembly or movement of the Solar Facilities (a "**Repair Removal and Reinstallation**"), Tenant shall diligently and promptly cooperate with Landlord in connection with such Repair Removal and Reinstallation and shall commence such Repair Removal and Reinstallation within thirty (30) business days of Landlord's request if commercially feasible (except in the event of an Emergency, in which event such Repair Removal and Reinstallation shall commence as soon as possible); provided, that Landlord will endeavor to provide Tenant with at least sixty (60) days prior written notice of any Repair Removal and Reinstallation as a courtesy. In no event shall Tenant be required to remove more than 20% of the Solar Facilities at a single time, and Roof Repairs that affect more than 20% of the Solar Facilities shall be completed in a phased manner so that at no one time shall more than 20% of the Solar Facilities be removed except in the event of an Emergency; and provided further, that Landlord shall use commercially reasonable efforts to not require removal during High Insolation Periods (as defined below), and shall work in good faith with minimize the disruption to the Solar Facilities attributable to Roof Repairs. The reinstallation of the Solar Facilities shall be in compliance with the plans approved as part of Tenant's Work. Except as otherwise provided herein, Landlord shall be responsible for the full cost to Tenant of each Repair Removal and Reinstallation, and Landlord shall reimburse Tenant for any Lost Energy Revenue (as defined hereinafter) up until the date that is the earlier of (i) thirty (30) days following the date upon which Landlord makes the applicable portion of the Rooftop available to Tenant for the reinstallation of the Solar Facility or (ii) the date on which reinstallation of the Solar Facility is completed; provided, however, no Lost Energy Revenue shall

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be due for the first five (5) days that all or a portion of the Solar Facilities is out of operation during each calendar year increment of the term of this Lease following the Commercial Operations Date, during the time all or a portion of the Solar Facilities is out of operation as a result of a Roof Repair (the "**Repair Time**"). Notwithstanding anything to the contrary contained herein, in no event shall Landlord be liable for Lost Energy Revenue in any year of the Term that is in excess of the Termination Payment due during that year.

5.3 Lost Energy Revenue. "**Lost Energy Revenue**" means the sum of the (i) revenue Tenant would have received from the sale of the Solar Facilities' electrical generation under any power purchase agreement but for the disruption in the Solar Facilities' operation solely caused by: (a) the Repair Removal and Reinstallation in connection with a Roof Repair, (b) any damage to the Solar Facilities caused by Landlord or any Landlord Parties as set forth in Section 5.5, below, (c) any Landlord default beyond any applicable notice and cure period set forth herein, (d) any roof replacement work performed in the event of an Emergency and/or the Roof Replacement as and to the extent set forth in Section 5.4, below, and (e) a delay, following the Extension Period, in Landlord's completion of the Roof Replacement Work pursuant to the terms of Section 4.9, above, (ii) revenue Tenant would have received from rebate, assistance or other incentive programs related to the operation of the Solar Facilities, including without limitation the Environmental Attributes and Environmental Incentives as defined in Section 17.12 below, but for the disruption in the Solar Facilities' operation solely caused by any of the items set forth in this Section 5.3(b)(i)(a)-(e) above, and (iii) tax credits that otherwise would have been receivable by Tenant or its Financing Parties, direct or indirect owners but for the disruption in the Solar Facilities' operation and/or any tax credits already claimed but are subject to recapture (including any fees and penalties associated with such recapture), either or both solely caused by any of the items set forth in this Section 5.3(b)(i)(a)-(e) above. Tenant shall be entitled to Lost Energy Revenue only upon providing to Landlord, reasonably detailed written documentation evidencing that actual Lost Energy Revenue, including reasonable explanation of the metrics and calculations supporting any claimed Lost Energy Revenue sums, has occurred or will occur consistent with the conditions provided herein. Tenant must claim and provide requisite documentation to Landlord no later than ninety (90) days after an occurrence of Lost Energy Revenue except in the case of lost incentives, rebates or tax credits, where Tenant must claim and provide requisite documentation to Landlord no later than ninety (90) days after the receipt by Tenant of written notice from any governmental authority or independent auditor indicating that Tenant or its Financing Parties, direct or indirect owners are ineligible for such incentive, rebate or tax credit or such items are or will be subject to recapture. Lost Energy Revenue shall be reduced by any amounts actually recovered by Tenant from (a) business interruption insurance, (b) solar revenue puts or similar insurance products, or (c) third parties.

For the purpose of calculating the payments for Lost Energy Revenue, Lost Energy Revenue shall be deemed to have been produced at the same applicable pro rata rate based on the monthly estimate of energy production with respect to the Solar Facilities (as reasonably determined by Tenant and as shall be provided to Landlord upon Landlord's prior written request) as follows: (i) in the case of any calculations occurring within the first twelve (12) months of the Solar Facilities' operation, such estimate shall be based on the projected total energy production of the applicable month of operation as shown on the attached **Schedule "H"**; and (ii) in the case of any calculations occurring

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after the first twelve (12) months and up to the first twenty-four (24) months of the Solar Facilities' operation, such estimate shall be based on the total energy production during the same month in the prior calendar year, in each case, as if there had been no interruption in the Solar Facilities' operation.

Once Tenant furnishes written notice including evidence that Tenant is entitled to the Lost Energy Revenue to Landlord, Tenant shall be entitled to make an equivalent reduction in Rent for all Lost Energy Revenue owed by Landlord to Tenant, provided, however, in the event that the Lost Energy Revenue owed by Landlord to Tenant is in excess of the annual Rent then payable pursuant to the terms hereof, then, within thirty (30) days following Tenant's request, Landlord shall pay any such excess of Lost Energy Revenue to Tenant.

Landlord hereby acknowledges and agrees that, notwithstanding any provision to the contrary set forth herein, Lost Energy Revenue shall be deemed direct damages and not consequential damages.



As used herein, "**High Insolation Periods**" means the hours from 5:30AM Eastern Daylight Time to 6:00PM Eastern Standard Time on any days within the period commencing April 1st of each calendar year and ending September 30th of any such calendar year. Notwithstanding the foregoing, Landlord shall have the right, upon at least thirty (30) days prior written notice to Tenant, to designate up to two (2) weeks of each calendar year during High Isolation Periods during which two (2) week period Landlord shall have the right to perform repair or replacement work, provided that in no event shall such two (2) week designation extend the Repair Time.

5.4. Roof Replacement.

(a) In General. Landlord hereby agrees that, notwithstanding any

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provision to the contrary set forth in this Lease but subject to the following terms of this Section 5.4(a) and Section 5.4(b), below, Landlord shall not have the right to replace the roof of the Building during the Term except in the event of an Emergency. Landlord shall have the right to replace the roof of the Building in the event of an Emergency, provided that the following shall apply: (i) Landlord shall provide Tenant with at least thirty (30) days prior written notice of its election to replace the roof of the Building, along a written report from a reputable roofing contractor indicating such work is reasonably necessary and should as a matter of prudent commercial practice be performed, (ii) Tenant shall, at Landlord's expense, relocate the Solar Facilities to another portion of the roof, (iii) Tenant shall be entitled to any and all Lost Energy Revenue for the applicable portion of the roof through the date that the Solar Facilities are back online and fully-operable on the applicable portion of the roof, (iv) Tenant shall, at Landlord's expense, reinstall the portion of the Solar Facilities relocated as a result of the roof replacement work in the Leases Premises, (v) Landlord shall complete any roof replacement or, if any roof replacement is conducted in a phased manner, each phase of such roof replacement within three (3) months of the commencement of such roof replacement or phase, as applicable, and (vi) any roof replacement shall be undertaken in accordance with the third subparagraph of Section 5.1 above, except that Tenant shall be required to remove up to twenty percent (20%) of the Solar Facilities at a single time to facilitate the roof replacement, and if the roof replacement affects more than twenty percent (20%) of the Solar Facilities, then such roof replacement shall be completed in a phased manner so that at no one time shall more than twenty percent (20%) of the Solar Facilities be removed.

(b) Roof Replacement. Landlord shall have the one-time right to replace the roof of the Building at any time following August 1, 2039 (the "**Roof Replacement**"). The following provisions allocate between Landlord and Tenant the financial burden of removal, storage and reinstallation of the applicable Solar Facilities and the Lost Energy Revenue associated with the Roof Replacement.

(i) Prior to performing any Roof Replacement, Landlord shall provide Tenant with a written report from a roofing contractor reasonably acceptable to Tenant indicating such work is necessary and should as a matter of prudent commercial practice be performed. In the event that Landlord elects to undertake the Roof Replacement subject to the terms hereof, Landlord shall provide Tenant with at least sixty (60) days prior written notice (the "**Roof Replacement Notice**"), which Roof Replacement Notice shall specify the date upon which Landlord will commence the Roof Replacement work (which shall not be sooner than sixty (60) days from the date of such Roof Replacement Notice).

(ii) In the event that Landlord elects to undertake the Roof Replacement, then, Tenant shall bear the cost in connection with the removal, storage and reinstallation of the Solar Facilities during such Roof Replacement in accordance with the terms and conditions set forth herein. The reinstallation of the Solar Facilities shall be in compliance with the plans approved as part of Tenant's Work. No Lost Energy Revenue shall be due during such Roof Replacement, except in the event that (x) if the Roof Replacement is not conducted in a phased manner, Landlord fails to complete the Roof Replacement within three (3) months of the commencement of such work or, (y) if any Roof Replacement is conducted in a phased manner, any particular phase of the Roof Replacement is not completed within three (3) months of the

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commencement of such phase, then Tenant shall be entitled to any and all Lost Energy Revenue for the period commencing on the day immediately following the expiration of the applicable three (3) month period and continuing through the date that the Roof Replacement is completed or, with respect to a Roof Replacement conducted in a phased manner, the applicable phase of such Roof Replacement is completed. Tenant shall store the portion of the Solar Facilities that are removed pursuant to the terms hereof on another location of the Property, designated by Landlord, which location shall be subject to Tenant's reasonable approval.

(iii) Any Roof Replacement shall be undertaken in accordance with the terms of Section 5.2 above, except that Tenant shall be required to remove up to twenty-five percent (25%) of the Solar Facilities at a single time to facilitate the Roof Replacement, and if the Roof Replacement affects more than twenty-five percent (25%) of the Solar Facilities, then such Roof Replacement shall be completed in a phased manner so that at no one time shall more than twenty-five percent (25%) of the Solar Facilities be removed.

(iv) Landlord shall use reasonable efforts to not require removal of the Solar Facilities in connection with the Roof Replacement during High Insolation Periods and shall work in good faith with minimize the disruption to the Solar Facilities during performance of the Roof Replacement.

(v) Landlord shall be responsible for the cost of any Roof Replacement.

5.5 Landlord's Damage. If Landlord or any Landlord Parties damages the Solar Facility (such damages, "**LC Damage**"), Landlord shall promptly notify Tenant of same. Tenant shall have the right to make all repairs to the Solar Facility, which repairs shall be at the sole cost and expense of Landlord to the extent attributable to LC Damage. Such reasonable, actual out-of-pocket costs (including, but not limited to, Lost Energy Revenue) to the extent attributable to LC Damage will, at Landlord's election, either be paid directly by Landlord to Tenant within thirty (30) days of receipt of an invoice with reasonable written evidence therefor or shall be deducted from the next payment of Rent due hereunder.

5.6 Survival of Obligations. All obligations of Landlord and Tenant hereunder not fully performed as of the expiration or earlier termination of this Lease that are expressly stated to survive the termination of the Lease Term shall survive such expiration or earlier termination.

6 Installation, Operation, and Removal of Solar Facilities.

6.1 Aesthetics of the Leased Premises. Tenant, at Tenant's sole cost and expense, shall maintain the aesthetics of the Leased Premises and Solar Facilities consistent with the plans and specifications approved by Landlord. During the Term of this Lease, Landlord shall have the right, at its sole cost and expense, to modify the aesthetics surrounding the Property and the Building including the Rooftop, as long as such modifications do not unreasonably impact Tenant's access to the Leased Premises or the Licensed Areas or operations of the Solar Facilities. Tenant agrees to use commercially reasonable efforts, at Landlord's sole cost and expense, to cooperate with Landlord in

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effecting any such Landlord-required aesthetic changes.

6.2 Alterations During the Term of this Lease. Tenant shall not materially alter, improve, modify, change, or add to the Solar Facilities following the completion of Tenant's Work (collectively, "**Alterations**") without receipt of Landlord's prior written consent thereto (such consent not to be unreasonably withheld, conditioned or delayed), except that Landlord's consent shall not be required if the Alterations: (a) do not penetrate the Rooftop; (b) do not affect the Building Structure; (c) do not adhere to the roof membrane; (d) do not require a building permit, and (e) do not materially deviate from the specifications for the Solar Facilities shown in **Schedule "A-1**". In no event shall repairs and maintenance performed by Tenant or its agents on the Solar Facilities in the ordinary course be deemed to be Alterations hereunder. With regard to Tenant obtaining all required permits and approvals in connection with the performance of Alterations, Landlord shall reasonably cooperate, at Tenant's sole cost and expense, with Tenant; provided, however, that Landlord shall not be responsible for procuring or maintaining any such approval connected to permits or approvals for any such Alterations. Landlord may monitor and oversee the construction and installation of any Alterations (except for those Alterations that do not require Landlord consent pursuant to this Section 6.2 or Tenant's Work). Landlord's right to review plans and specifications and to monitor construction shall be solely for its own benefit, and Landlord shall have no duty to see that such plans and specifications or construction comply with Legal Requirements. Tenant shall provide Landlord with the identities and mailing addresses of all persons performing work, prior to commencing the performance of such Alterations, and Landlord may post on and about the Leased Premises notices of non-responsibility pursuant to applicable law. Upon completion of the Alterations, Tenant shall deliver to Landlord statements setting forth the names of all contractors and subcontractors who did work on the Alterations and final lien waivers from all such contractors and subcontractors, if applicable. Notwithstanding anything contained herein to the contrary in this Section 6.2 with respect to Alterations constructed after the initial installation of the Solar Facility, in no event shall Tenant make any additional roof penetrations or adhere any equipment to the roof membrane following the initial construction of the Tenant's Work without the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion (i.e., the foregoing shall not be applicable to the initial construction of Tenant's Work which shall be governed by the terms of Section 4.2 above).

6.3 Removal of Solar Facilities. The Solar Facilities shall at all times remain the property of Tenant during the Term. Tenant shall have the right to remove the Solar Facilities, or any part thereof, at any reasonable time upon at least thirty (30) days' prior written notice to Landlord, provided that Tenant's election to remove the Solar Facilities shall not affect Tenant's obligation to continue paying Rent pursuant to the terms of this Lease. At the expiration of the Term including any extensions thereof, or upon any sooner termination of the Term due to the default of Tenant hereunder, Tenant shall remove all Solar Facilities within ninety (90) days of the expiration, or earlier termination, of this Lease (the "**Removal Period**"), at its own cost and expense (but without payment of any Rent), and shall return the Leased Premises to its condition existing prior to Tenant's

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installation of the Solar Facilities (excepting only Ordinary Wear and Tear, casualty and condemnation). Subject to the rights of Tenant's Financing Parties set forth herein, if Tenant fails to timely complete such removal or fails to satisfactorily return the Leased Premises to the requisite condition pursuant to Section 6.3, above, Landlord may, following no less than forty-five (45) days' prior written notice to Tenant (the "**Final Removal Notice**"), draw on the Decommissioning Assurance Letter of Credit and complete such removal and repair such damage at Landlord's actual, out-of-pocket cost and expense, in which event Tenant shall pay the cost of such removal and repair, in excess of amount of Decommissioning Assurance Letter of Credit no later than thirty (30) days following Tenant's receipt of an invoice for the same (which invoice shall be accompanied by reasonable back-up documents evidencing the costs incurred by Landlord). If Landlord elect to remove the Solar Facilities, Landlord will perform such removal in a commercially reasonable manner and store the Solar Facilities at a location designated by Landlord, at Tenant's cost, which will be paid by Tenant prior to the removal and storage of such Solar Facilities, provided, however, in the event that Tenant does not either (a) prepay such storage costs or (b) remove or cause the Solar Facilities to be removed from storage within 150 days following the expiration, or earlier termination, of this Lease, then, in either case, Landlord may dispose of the Solar Facilities in any manner that it sees fit, and Tenant shall thereafter have no claims against Landlord related to such disposal, and except to the extent caused by Landlord's negligence or willful misconduct, Tenant shall indemnify Landlord from any costs, claims, or liabilities incurred in connection such disposal of the Solar Facility. Additionally, subject to the rights of Tenant's Financing Parties set forth herein, in the event that the Solar Facilities are not removed within 150 days following the expiration, or earlier termination, of this Lease, then, Landlord shall have the right to deliver written notice to Tenant at any time after the expiration of such 150 day period but prior to Tenant's removal of the Solar Facility, electing to take title of the Solar Facility. In the event that Landlord delivers any such notice to Tenant prior to Tenant's removal of the Solar Facility, then the Solar Facility shall become the property of Landlord free and clear of any liens or encumbrances and Tenant shall have no further obligation to remove the same from the Property. For the purposes of this Lease, "**Ordinary Wear and Tear**" shall mean wear and tear which would exist if Tenant had not constructed, installed, operated, or repaired the Solar Facilities. Once installed, the roof associated roof membrane shall at all times remain the property of Landlord.

6.4 Compliance with Laws. Landlord makes no warranty or representation that the Solar Facilities are permitted by law and Tenant assumes all liability and risk in obtaining and maintaining all permits and approvals (if any) necessary for the installation and use of the Solar Facilities.

7 Indemnification and Insurance.

7.1 Indemnification and Waiver. Except to the extent due to the negligence or willful misconduct of Landlord or the Landlord Parties and subject to Section 7.5, Tenant shall indemnify, protect, defend and hold Landlord, its parents, members, partners, subsidiaries, affiliates,

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successors and assigns, and each of their respective principals, officers, directors, agents, employees, servants, managers, successors and assigns, and Landlord Mortgagee, if any (collectively, the "**Landlord Parties**") harmless from and against all third party losses, damages, claims, actions, causes of action, liabilities, costs and expenses (including reasonable attorneys' fees) (collectively, "**Claims**") arising out of or related to (i) a breach by Tenant of this Lease, (ii) any act or omission of Tenant or its agents, servants, employees, contractors or representatives (collectively, the "**Tenant Parties**"), including, but not limited to, damage, losses or injuries from Tenant's exercise of its rights under this Lease, including, without limitation, the construction, operation, maintenance and repair of the Solar Facilities, or (iii) any use by Tenant of the Property, the Leased Premises, the Solar Facilities or access areas to the Leased Premises. Tenant agrees and acknowledges that it shall use the Leased Premises at its sole risk, and, except for the gross negligence or willful misconduct of Landlord, Tenant absolves and fully releases Landlord and the Landlord Parties from any and all Claims. Except to the extent caused by the negligence or willful misconduct of the Tenant Parties, Landlord shall indemnify, defend, protect, and hold harmless Tenant and the Tenant Parties from any and all loss, cost, damage, expense and liability (including without limitation reasonable attorneys' fees) arising from the negligence or willful misconduct of Landlord in, on or about the Project. The provisions of this section shall survive the expiration or earlier termination of this Lease.



7.4 Subrogation. Notwithstanding anything to the contrary herein, except as to the gross negligence of one party, and to the extent permitted by law and without affecting the coverage provided by insurance required to be maintained hereunder, Landlord and Tenant shall each agree to waive any right to recover against the other party (and the other party's affiliates, agents, officers, directors and employees) on account of any and all claims it may have against the other party (and the other party's affiliates, agents, officers, directors and employees) with respect to the insurance

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actually maintained, or required to be maintained, and to the extent proceeds are realized from such insurance coverage that are applied to such claims. Each policy described in this Lease shall contain a waiver of subrogation endorsement causing each insurer to waive all rights of recovery against the other party (and the other party's affiliates, agents, officers, directors and employees).

8 Events of Default. Each of the following occurrences shall constitute an "**Event of Default**" by Tenant under this Lease:

8.1 Monetary Default. Tenant's failure to pay the Rent or any other payment required to be paid herein when due, which failure continues for five (5) business days after written notice of delinquency; provided, however, that if Landlord has given Tenant two (2) such delinquency notices in the preceding twelve (12) month period, then Tenant's subsequent failure to pay any Rent or other payment when due shall constitute a default under this Lease without requirement of any notice or cure period.

8.2 Non-Monetary Default. Breach by Tenant of any non-monetary provision of this Lease (except as set forth in Sections 8.3 and 8.4, below), where such breach shall continue for a period of thirty (30) days after written notice thereof from Landlord; provided, however, that if the nature of the breach is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if such commences such cure within said thirty (30) day period and thereafter diligently pursues such cure to completion, provided that such cure must be completed within sixty (60) days after the original notice.

8.3 Abandonment. If Tenant abandons the Solar Facilities and stops paying Rent, for a period of sixty (60) consecutive days after written notice thereof, or Tenant stops paying Rent and also removes from the Leased Premises (and does not replace or substitute equipment for) all of the Solar Facilities at the Leased Premises, unless such removal is pursuant to Landlord's request or with Landlord's consent.

8.4 Insurance. If insurance required to be maintained by Tenant pursuant to this Lease shall be cancelled or terminated or shall expire or shall be reduced or materially changed, except, in each case, as permitted in this Lease.

8.5 Unauthorized Transfer. There shall occur any assignment, subleasing or other transfer of Tenant's interest in or with respect to this Lease except as otherwise permitted in this Lease.

8.6 Failure to Discharge Lien. Tenant shall fail to discharge, or bond over, any lien placed upon the Leased Premises or Property within ten (10) business days after Tenant receives written notice that any such lien or encumbrance is filed against the Leased Premises or Property.

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8.7 Other. In the event Tenant (A) makes a general assignment for the benefit of creditors; (B) commences any case, proceeding or other action seeking to have an order for relief entered on its behalf as a debtor or to adjudicate it as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or of any substantial part of its property (collectively a "**proceeding for relief**"); (C) becomes the subject of any proceeding for relief which is not dismissed within sixty (60) days of its filing or entry; or (D) is dissolved or otherwise fails to maintain its legal existence.

9 Remedies

9.1 Landlord Remedies

9.1.1 Except as set forth in Section 9.1.3, below, upon occurrence of an Event of Default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity (all of which remedies shall be distinct, separate and cumulative), the option to pursue any one or more of the following remedies, each and all of which shall be cumulative and nonexclusive, without any notice or demand whatsoever. Landlord may, subject to the terms of Section 12.4, below, at its option, terminate this Lease, in which event Tenant shall surrender the Leased Premises to Landlord in accordance with the terms of this Lease, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy, at law or in equity, which it may have for possession or arrearages in Rent, enter upon and take possession of the Leased Premises and expel or remove Tenant and any other person who may be occupying the Leased Premises or any part thereof, without being liable for prosecution or any claim of damages therefor; and Landlord may recover from Tenant such amounts as available pursuant to applicable law. If Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may, from time to time, without terminating this Lease, subject to the terms of Section 12.4, below, enforce all of its rights and remedies under this Lease, including the right to recover all Rent as it becomes due.

9.1.2 Termination Damages. If this Lease is terminated due to an Event of Default by Tenant, then unless and until Landlord elects lump sum liquidated damages described in Section 9.1.3 of this Lease, Tenant covenants, as an additional cumulative obligation after any such termination, to pay punctually to Landlord all the sums and perform all the obligations which Tenant covenants in this Lease to pay and to perform in the same manner and to the same extent and at the same time as if this Lease had not been terminated. In calculating the amounts to be paid by Tenant pursuant to the preceding sentence Tenant shall be credited with the net proceeds of any Rent then actually received by Landlord from a reletting of the Leased Premises after deducting all sums provided for in this Lease to be paid by Tenant and not then paid. In no event shall Tenant's liability under this Lease exceed Tenant's remaining Rent payments under this Lease, except in cases of (a) third party indemnity claims; (b) Tenant's fraud; (c) holding over for a period of thirty (30) days following the Removal Period when notice of a new tenancy has been provided in advance; or (d) as

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a result of any default, breach or misrepresentation by Tenant with respect to any agreement, covenant, obligation, representation or warranty of Tenant set forth in this Lease pertaining to the environmental condition of the Leased Premises, any environmental laws or ordinances pertaining to the Leased Premises, or Tenant's use of the Leased Premises.

9.1.3 Lump Sum Liquidated Damages. If this Lease is terminated due to an Event of Default by Tenant, then, subject to the terms of Section 12.4, below, Tenant covenants, to pay forthwith to Landlord at Landlord's election made by notice to Tenant at any time following any such termination, as liquidated damages a single lump sum payment equal to the sum of (i) all sums provided for in this Lease to be paid by Tenant and not then paid at the time of such election, and in addition, (ii) an amount equal to the sum of all of the Rent and other sums due hereunder and payable with respect to the twelve (12) month period next following the date of termination, and (iii) in the event that Tenant has failed to remove the Solar Facilities on or before the expiration of the Removal Period, then the cost of removal of the Solar Facilities (unless Landlord elects to retain the Solar Facilities pursuant to the terms of this Lease) (i.e., Landlord shall not be entitled to the cost for the removal of the Solar Facilities until expiration of the Removal Period nor shall Landlord be entitled to take title to the Solar Facilities except as specifically set forth in Sections 6.3 and 9.11 of this Lease). Tenant's payment of any amounts due under this Section 9.1.3 shall be Landlord's sole remedy for an Event of Default by Tenant, unless Tenant refuses to pay same, in which case Landlord shall have such other remedies as may be available in law or equity.

9.2 Remedies Cumulative. Any and all rights and remedies Landlord or Tenant may have under this Lease, and at law and equity, shall be cumulative and shall not be deemed inconsistent with each other, and any two (2) or more of all such rights and remedies may be exercised at the same time insofar as permitted by law. Nothing contained in this Lease shall, however, limit or prejudice the right of Landlord or Tenant to prove and obtain in proceedings for bankruptcy or insolvency by reason of the termination of this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when and governing the proceedings in which the damages are to be proved, whether such amount be greater, equal to, or less than the amount of the loss or damages referred to in Section 9.2 of this Lease.

9.3 Effect of Waivers of Default. Any consent or permission by Landlord or Tenant to any act or omission which otherwise would be a breach of any covenant or condition, or any waiver by Landlord or Tenant of the breach of any covenant or condition, shall not in any way be held or construed to operate so as to impair the continuing obligation of such covenant or condition, or otherwise operate to permit other similar acts or omissions. No breach shall be deemed to have been waived unless and until such waiver be in writing and signed by the other party. The failure of Landlord or Tenant to seek redress for violation of or insist upon the strict performance of any covenant or condition of this Lease, or the receipt by Landlord of Rent with knowledge of any violation, shall not be deemed a consent to or waiver of such violation, nor shall it prevent a subsequent act, which would otherwise constitute a violation, from in fact being a violation.

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9.4 No Accord and Satisfaction; No Surrender. No acceptance by Landlord of a lesser sum than the Rent, or any other sum or charge then due shall be deemed to be other than on account of the earliest installment of such rent, sum or charge due; nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other right or remedy available to it. The removal of the Solar Facilities (or any similar act) shall not operate as a termination of this Lease or an acceptance of a surrender of the Leased Premises.

9.5 WAIVER OF JURY TRIAL. LANDLORD AND TENANT HEREBY WAIVE TRIAL BY JURY IN ANY SUMMARY PROCEEDING IN ANY EMERGENCY OR OTHER STATUTORY REMEDY, OR IN ANY ACTION BASED, IN WHOLE OR IN PART, ON NON-PAYMENT OF RENT OR OTHER DEFAULT OR EVENT OF DEFAULT UNDER THIS LEASE; AND TENANT FURTHER AGREES THAT IT SHALL NOT INTERPOSE ANY COUNTERCLAIM OR SET-OFF IN ANY SUCH PROCEEDING, EXCEPT TO THE EXTENT TENANT WOULD HAVE NO RIGHT TO COMMENCE AN INDEPENDENT PROCEEDING TO SEEK TO RECOVER ON ACCOUNT OF SUCH CLAIM.

9.6 Landlord's Right to Cure and Enforce. If Tenant shall neglect or fail to perform or observe any covenant or condition of this Lease and shall not cure such default or Event of Default within the applicable notice and cure period, Landlord may, at its option, without waiving any claim for breach, at any time thereafter cure such default or Event of Default for the account of Tenant, and any amount paid or any liability incurred by Landlord in so doing shall be deemed paid or incurred for the account of Tenant, and Tenant shall reimburse Landlord therefor, within thirty (30) days following demand. Notwithstanding any other provision herein concerning cure periods, Landlord may cure any default or Event of Default for the account of Tenant after such notice to Tenant, if any, as is reasonable under the circumstances (including telephone notice) if the curing of such default or Event of Default prior to the expiration of the applicable cure period is reasonably necessary to prevent likely damage to the Leased Premises or other improvements or possible injury to persons, or to protect Landlord's interest the Property or the Leased Premises. Tenant shall pay to Landlord on demand all of the costs and expenses of Landlord, including such reasonable attorneys' fees, incurred in enforcing any covenant or condition of this Lease. Without limiting any of its other rights or remedies, any sum due hereunder shall, in addition, bear interest from the date due at the greater of (i) one and one-half percent (1.50%) for each month (or ratable portion thereof) the same remains unpaid, or (ii) three percent (3.00%) per annum (or ratable portion thereof) above the so-called prime rate of interest published in The Wall Street Journal from time to time on ninety (90) day loans to its most credit-worthy borrowers; provided that interest shall never exceed the maximum rate permitted under applicable law.

9.7 In the event Tenant breaches any covenant or fails to observe any condition set

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forth in Section 7 of this Lease with respect to the insurance required to be maintained by Tenant, then and without limiting any other right or remedy, and notwithstanding any other provision herein concerning notice and cure of defaults or Events of Default, Landlord may, within five (5) days following notice to Tenant obtain such insurance, and Tenant shall pay the cost thereof and Landlord's expenses related thereto upon demand.

9.8 Landlord's Default. In no event shall Landlord be in default unless notice thereof has been given to Landlord (and all mortgagees for which Tenant timely received such mortgagee's notice address) and Landlord (or any such mortgagee at its sole discretion) fails to perform within thirty (30) days (provided, however, that such thirty (30) day period shall be reasonably extended if such performance begins within such period and thereafter is diligently pursued, or if such mortgagee notifies Tenant within such period that it intends to cure on behalf of Landlord and thereafter begins curing within such period, or if later within thirty (30) days after acquiring possession of the Property if the cure requires the mortgagee to obtain possession of the Property, and diligently pursues curing with reasonable promptness). Notwithstanding the foregoing, in no event shall any Landlord or any Landlord mortgagee be entitled to more than sixty (60) days to cure any such default hereunder.

9.9 Tenant's Remedies.

9.9.1 In General. Upon a default by Landlord that is not cured within the permitted time under Section 8, above, Tenant may, at its option (but without obligation to do so), declare an event of default and avail itself of all available rights at law and equity as well as any other remedies expressly set forth herein.

9.9.2 Termination Payment. To the extent that Landlord commits an Event of Default under the Lease that is tantamount to constructive eviction of Tenant under this Lease such as refusing to let Tenant reinstall the Solar Facility following Landlord's repairs or otherwise materially and adversely limiting or eliminating Tenant's ability to operate the Solar Facility pursuant to this Lease (such Event of Default, a "**Material Landlord Default**") then Tenant shall be entitled to and, Landlord shall pay Tenant the amount (the "**Termination Payment**") set forth in Schedule "I" for the year in which such termination occurs, within thirty (30) days of the date that termination of this Lease as the result of a Material Landlord Default occurs. Landlord acknowledges that the Termination Payment constitutes liquidated damages, and not penalties, payable in lieu of Tenant's actual damages for, among other things, the cost, installation and removal of the Solar Facility and loss of Environmental Attributes, resulting from Tenant's early termination of this Lease by reason of a Material Landlord Default. Landlord further acknowledges that Tenant's actual damages are impractical, impossible and difficult to accurately ascertain and the Termination Payment constitutes fair and reasonable damages to be borne by Landlord in lieu of Tenant's actual damages. The Termination Payment shall only be available for a Material Landlord Default and shall be Tenant's sole remedy in the event of a termination of the Lease caused by a Material Landlord Default, unless

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Landlord refuses to pay same, in which case Tenant shall have such other remedies as may be available in law or equity. In the event of termination by Tenant pursuant to this provision, Tenant shall be relieved of all further liability hereunder except its obligation to remove its improvements as provided herein (unless a Material Landlord Default prevents same). Any rental fees paid prior to said termination date shall be retained by Landlord.

9.10 Consequential damages. In no event shall Landlord or Tenant be liable for indirect, consequential, special or punitive damages under the terms of this Lease, except to the extent payable by Landlord or Tenant to a Third Party. Landlord hereby agrees that Lost Energy Revenue shall be deemed direct damages.

9.11 Option to Purchase. At any time following the tenth (10^{th}) anniversary of the Commercial Operation Date, Landlord shall have the "**Option to Purchase**" the Solar Facilities from Tenant for a purchase price equal to the Fair Market Value, as set forth below, of the Solar Facilities. Landlord must provide a notification to Tenant of its intent to purchase at least sixty (60) days and not more than one hundred eighty (180) days prior to its intention to exercise the Option to Purchase. Any such purchase shall be on an as-is, where-is basis, and Tenant shall not provide any warranty or other guarantee regarding the performance of the Solar Facilities; provided, however, that Tenant shall assign to Landlord any manufacturers warranties that are in effect as of the purchase date, and which are assignable pursuant to their terms.

As used herein, "**Fair Market Value**" means, in Tenant's reasonable determination, the amount that would be paid in an arm's length, free market transaction, for cash, between an informed, willing seller and an informed willing buyer, neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age, condition and performance of the Solar Facilities and advances in solar technology, provided that installed equipment shall be valued on an installed basis, shall not be valued as scrap if it is functioning and in good condition and costs of removal from a current location shall not be a deduction from the valuation. Tenant shall determine Fair Market Value within thirty (30) days after Landlord has exercised its Option to Purchase the Solar Facilities. Tenant shall give written notice to Landlord of such determination, along with a full explanation of the calculation of Fair Market Value, including without limitation, an explanation of all assumptions, figures and values used in such calculation and factual support for such assumptions, figures and values. If Landlord reasonably objects to Tenant's determination of Fair Market Value within thirty (30) days after Tenant has provided written notice of such determination, the parties shall mutually select a nationally recognized independent appraiser with a minimum of five (5) years experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the Solar Facilities. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the Solar Facilities based on the formulation set forth herein, and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by Landlord. Upon purchase of the Solar Facilities, Landlord will assume complete

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responsibility for the operation and maintenance of the Solar Facilities and liability for the performance of the Solar Facilities, and Tenant shall have no further liabilities or obligations hereunder.

10 Assignment.

10.1 In General. Except as set forth herein, below, Tenant shall not assign this Lease (an "**Assignment**") without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. To request Landlord's consent to any Assignment, Tenant shall notify Landlord in writing, which notice (the "**Assignment Notice**") shall include (a) the proposed effective date of the Assignment, which shall not be less than twenty (20) days after the date of delivery of the Assignment Notice, (b) all of the terms of the proposed Assignment, the name and address of the proposed assignee (the "**Assignee**"), and a copy of all existing and/or proposed documentation pertaining to the proposed Assignment, including all existing operative documents to be executed to evidence such Assignment or the agreements incidental or related to such Assignment, and (c) current financial statements of the proposed Assignee certified by an officer, partner or owner thereof, and any other information reasonably required by Landlord, which will enable Landlord to determine the financial responsibility, character, and reputation of the proposed Assignee, nature of such Assignee's business and proposed use of the Leased Premises, and such other information as Landlord may reasonably require. Any Assignment made without Landlord's prior written consent shall, at Landlord's option, be null, void and of no effect, and shall, at Landlord's option, constitute a default by Tenant under this Lease. Landlord and Tenant acknowledge and agree that in no event shall Tenant be permitted to sublease all or any portion of the Leased Premises.

10.2 Effect of Assignment. Upon any Assignment, (i) the terms and conditions of this Lease shall in no way be deemed to have been waived or modified, (ii) any consent given by Landlord shall not be deemed consent to any further Assignment by either Tenant or an Assignee, and (iii) Tenant shall deliver to Landlord, promptly after execution, an executed copy of all documentation pertaining to the Assignment in a form reasonably acceptable to Landlord, and (iv) such Assignee shall be liable for the payment of all sums due under this Lease and the performance and observance of all the agreements, covenants, conditions and provisions to be performed and observed by Tenant under this Lease as and when performance and observance are due. Notwithstanding any assignment or subletting, Tenant shall at all times remain fully responsible and liable for the payment of the Rent and for compliance with all of Tenant's other obligations under this Lease (regardless of whether Landlord's approval has been obtained for any such assignments or sublettings); provided, however, that Tenant shall be released of all liability under this Lease in the event of an assignment to a Permitted Transferee (defined below).

10.3 Permitted Transfer. Notwithstanding the foregoing or anything to the contrary contained herein, without the prior written consent of Landlord, Tenant may assign its rights and

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obligations hereunder to (a) any Affiliate of Tenant; (b) any entity which results from a merger of, reorganization of, or consolidation with Tenant or Tenant's Affiliates; (c) any entity engaged in a joint venture with Tenant or Tenant's Affiliates; (d) any entity which acquires substantially all of the stock or assets of Tenant or Tenant's Affiliates, as a going concern, with respect to the business that is being conducted in the Leased Premises; and (e) to Tenant's Financing Party (defined in Section 12.1, below), on a collateral basis or otherwise (any such persons or entities shall be referred to herein as a "**Permitted Transferee**"). An "Affiliate" is any entity that is controlled by Tenant or is under common control with Tenant or Dimension Energy. Subject to the restrictions set forth in this Section 10, this Lease and the rights and obligations under this Lease shall be binding upon and shall inure to the benefit of Tenant and Landlord and their respective permitted successors and assigns.

11 SUBORDINATION; NON-DISTURBANCE; ESTOPPEL CERTIFICATE.

11.1 Subordination. Subject to Section 11.2, below, the Lease shall be subject and subordinate at all times to any mortgage(s), deeds of trust and the lien resulting from any other method of financing or refinancing which now or subsequently are recorded against or affect the Landlord's Property or the Leased Premises, and to all renewals, modifications, consolidations, participations, replacements and extensions thereof (collectively, "**Landlord Mortgages**"). Subject to Section 11.2, below, this clause shall be self-operative and no further instrument of subordination shall be required by any mortgages, trustee, ground lessor, or other person or entity. Tenant hereby attorns to any underlying lessor or mortgagee and shall execute promptly any certificate or other instrument which Landlord may request in confirmation of such subordination and adornment.

11.2 SNDA. Landlord covenants and agrees to use commercially reasonably efforts to deliver to Tenant within thirty (30) days following the Effective Date a commercially reasonable non-disturbance and attornment agreement from any lenders under any existing Landlord Mortgages. If Landlord fails to deliver such SNDA to Tenant, then Tenant shall have the right to terminate this Lease at any time during the Development Term in accordance with the terms of Section 2.3(h) of this Lease. Landlord shall obtain a commercially reasonable subordination, non-disturbance and attornment agreement from any subsequent mortgagee as a condition of placing any Landlord Mortgages on the Leased Premises after the Effective Date. Without limiting the foregoing requirement that any such non-disturbance and attornment agreement be commercially reasonable, Landlord expressly agrees that Tenant shall not be required to subordinate its interest under this Lease pursuant to Section 11.1 unless (a) such subordination does not materially increase Tenant's obligations, or materially decrease Tenant's rights under this Lease; (b) Landlord first obtains from the holder of the Landlord Mortgage, deed of trust, or other instrument of security to which this Lease is to become subordinated a written agreement that provides substantially the following: "As long as Tenant or Tenant's Financing Party performs its obligations under this Lease within all applicable notice and cure periods, no foreclosure of, deed given in lieu of foreclosure of, or sale under the encumbrance, and no steps or procedures taken under the encumbrance, shall affect the rights of Tenant or Tenant's Financing Party hereunder"; and (c) such subordination agreement provides that (i) no foreclosure of, deed given in lieu of foreclosure of, or sale under the encumbrance, and no steps or procedures taken under the encumbrance, shall affect Tenant's Financing Party's right to pursue

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any or all of its remedies under a security interest in the Collateral, and (ii) the encumbrance holder shall take no action to impede or otherwise interfere with Tenant's Financing Party enforcing its right and remedies, as long as the Lease is in effect and the Tenant's Financing Party has continues to have a valid security interest in the Collateral.

11.3 Estoppel Certificate. Landlord and Tenant shall each, within fourteen (14) days after receipt of a written request from the other, execute and deliver a commercially reasonable form estoppel certificate in favor of a Landlord Mortgagee, a Financing Party (as defined below), a prospective purchaser of the Solar Facilities, the Leased Premises or the Landlord's Property, or such other party as may commonly request same, which estoppel certificate may include a certification as to the status of this Lease and the existence of any defaults hereunder. Landlord and all Landlord Mortgagees shall have the right, as against Tenant, to rely upon any certificate furnished by Tenant under this Section, and Financing Party shall have the right, as against Landlord, to rely upon any certificate furnished under this Section furnished by Landlord.

12 Ownership of Solar Facility; Financing..

12.1 Landlord expressly acknowledges and agrees that the Solar Facility, the renewable energy, and the Environmental Attributes produced by or associated with the Solar Facility are personal property and shall remain the personal property of Tenant; shall not be considered the real or personal property of Landlord; and shall not attach to or be deemed a part of, or fixture to, the Property, the Building, the Rooftop, the Leased Premises or any part thereof. In furtherance of the foregoing, Landlord agrees that the Solar Facility and all other personal property within the Leased Premises owned by Tenant, the renewable energy, the Environmental Attributes, or any part thereof consisting of trade fixtures (collectively, the "**Collateral**") shall not be deemed a fixture or part of the Leased Premises or the Property but shall at all times be considered personal and moveable property, whether or not any Collateral becomes so related to the Leased Premises that an interest therein would otherwise arise under applicable Legal Requirements. Tenant may remove all or any portion of the Solar Facility at any time and from time to time. Without limiting the generality of the foregoing, Landlord (i) hereby expressly waives all statutory and common law liens or claims that it might otherwise have in or to the Collateral or any portion thereof and agrees not to distrain or levy upon any Collateral or assert any lien, right of distraint or other claim against the Collateral; and (ii) shall take no action to impede or interfere with Tenant's Financing Party's remedies under a security interest in the Solar Facility as long as the Lease is in effect and the Tenant's Financing Party continues to have a valid security interest in the Collateral. "**Financing Party**" shall mean (x) any individual, entity, financial institution, leasing company, tax credit aggregator, or lender providing funds or extending credit to Tenant or its Affiliates and (y) any collateral or administrative agent acting on behalf of any such individual, entity, financial institution, leasing company, or lender in connection with such financing.

12.2 Tenant's Financing Rights. Landlord hereby agrees that Tenant shall have the right, in its sole and absolute discretion, to hypothecate the Collateral as security for Tenant's

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obligations under any equipment lease or other financing arrangement related to the conduct of the Permitted Use.

12.3 Consent to Collateral Assignment. Landlord hereby consents to the sale of the Collateral (or any part thereof) to Tenant's Financing Party and/or the collateral assignment to Tenant's Financing Party of Tenant's right, title and interest in and to this Lease and/or the Collateral. In connection with the foregoing, Landlord agrees to execute and deliver within ten (10) business days all commercially reasonable lien waivers, consents, acknowledgements, subordination agreements and other instruments and documentation reasonably required by Tenant's Financing Party to be executed by Landlord in connection with any such sale, lease or financing arrangement.

12.4 Tenant's Financing Party Rights: Notwithstanding any contrary term of this Lease:

(a) Tenant's Financing Party, as collateral assignee of this Lease, shall be entitled to exercise, in the place and stead of Tenant, any and all rights and remedies of Tenant under this Lease in accordance with the terms of this Lease. Tenant's Financing Party shall also be entitled to exercise all rights and remedies of owners or secured parties, respectively, generally with respect to this Lease and the Solar Facility, subject to the terms of this Lease.

(b) Tenant's Financing Party shall have the right (exercisable in its sole and absolute discretion), but not the obligation, to pay all sums due under this Lease and to perform any other act, duty or obligation required of Tenant hereunder or cause to be cured any default of Tenant hereunder in the time and manner provided by the terms of this Lease.

(c) Upon the exercise of any remedies under a security interest in the Solar Facility, including any sale thereof, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Tenant to Tenant's Financing Party in lieu thereof, Tenant's Financing Party will give Landlord written notice of the transfer or assignment of this Lease. Any such exercise of remedies or failure to give Landlord notice will not constitute a default under this Lease.

(d) Upon any rejection or other termination of this Lease pursuant to any process undertaken with respect to Tenant under the United States Bankruptcy Code, at the request of Tenant's Financing Party made within ninety (90) calendar days of such termination or rejection, Landlord shall enter into a new agreement with Tenant's Financing Party having substantially the same terms and conditions as this Lease.

(e) Prior to a termination of the Lease, Tenant's Financing Party or its representatives or invitees or any receiver or other similar official (a "**Receiver**") appointed in respect of the Collateral may enter upon the Leased Premises with the same access rights provided under the Lease without any charge or interference by Landlord to inspect or remove any or all of the Collateral, subject to the terms of this Lease.

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(f) Upon a termination of this Lease, Landlord will permit Tenant's Financing Party and its representatives and invitees and any Receiver to occupy the Leased Premises; provided, that (A) such period of occupation (the "**Disposition Period**") shall not exceed more than ninety (90) days following receipt by Tenant's Financing Party of a written notice of default under this Lease or, if the Lease has expired by its own terms (absent a default thereunder), up to ninety (90) days following Tenant's Financing Party's receipt of written notice of such expiration; (B) for the actual period of occupancy by Tenant's Financing Party, Tenant's Financing Party will pay to Landlord per diem rent in an amount equal to the same Rent payable by Tenant under this Lease prior to such expiration or termination and shall provide and retain liability and property insurance coverage and utilities to the extent required by the Lease; and (C) such amounts paid by Tenant's Financing Party to Landlord shall exclude any rent adjustments, indemnity payments, or similar amounts for which Tenant remains liable under the Lease for default or other similar charges (if any).

(g) During any Disposition Period, (A) Tenant's Financing Party and its representatives and invitees and any Receiver may, with the same access rights granted to Tenant under the Lease, inspect, repossess, remove and otherwise deal with the Collateral, (provided that Tenant's Financing Party may not advertise and conduct public auctions or private sales of the Collateral at the Leased Premises), in each case without interference by Landlord or liability of Tenant's Financing Party or its representatives or invitees or any Receiver to Landlord; and (B) Tenant's Financing Party shall make the Leased Premises available for inspection by Landlord and prospective tenants and shall cooperate in Landlord's reasonable efforts to re-lease the Leased Premises.

(h) If any order or injunction is issued or stay granted which prohibits Tenant's Financing Party from exercising any of its rights hereunder, then, at Tenant's Financing Party's option, the Disposition Period shall be stayed during the period of such prohibition and shall continue thereafter for the greater of (A) the number of days remaining in the Disposition Period or (B) ninety (90) days.

12.5 Notices of Default. Provided that Tenant has provided Landlord with Tenant's Financing Party's notice information in writing, Landlord will deliver to Tenant's Financing Party, concurrently with delivery thereof to Tenant, a copy of each notice of default given by Landlord under this Lease, inclusive of a reasonable description of the Tenant default. No such notice will be effective absent delivery to the Tenant Financing Party. Landlord will not mutually agree with Tenant to terminate this Lease without the written consent of the Financing Party.

12.6 Right to Cure.

(a) Landlord shall not exercise any right to terminate this Lease unless Landlord has given Tenant's Financing Party notice of Landlord's intent to terminate this Lease concurrent with such notice to Tenant and in accordance with Section 16, specifying the reason for such action, and the condition giving rise to the right of termination that was not cured within the time period set forth in this Lease.

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(b) If another Person acquires legal or equitable title to or control of Tenant's assets and cures all defaults under this Lease existing as of the date of such change in title or control in the manner required by this Lease, then Tenant shall not be in default under this Lease, and this Lease shall continue in full force and effect, provided that such Person acquiring such legal or equitable title to or control of Tenant's assets shall be bound under this Lease as Tenant for the remainder of the Term.

(c) Landlord acknowledges and agrees that Tenant may change Tenant's Financing Party at any time, in its sole discretion, and Landlord will abide by such new contact information and payment directions as instructed by Tenant, in writing.

13 Cooperation in Marketing

13.1 By Tenant. In no event shall Tenant be permitted to solicit tenants or other occupants of the Property or Building, provided that the foregoing shall not be applicable to Tenant's right to provide solar subscription plans to tenants and other occupants of the Property or Building if agreed upon by Landlord and Tenant. Tenant may not, without the prior written approval of Landlord, disclose the identity of the tenants and other occupants to any third party. In the event Landlord receives complaints from particular tenants or occupants of the Property or Building regarding Tenant's marketing of any of its services, Landlord shall have the right, upon written notice to Tenant, to prevent Tenant from any further contact with such tenants or other occupants of the Property or Building.

13.2 Communication/Publicity. No later than the Commercial Operation Date, Landlord and Tenant shall mutually agree on, and shall thereafter comply with, a communications plan governing all publicity related to the Project, which at a minimum shall provide that: (a) each of Landlord and Tenant may publish or post factually accurate information regarding the Project; (b) any tours or guest access to the Rooftop shall be subject to prior Landlord's approval, which approval shall not be unreasonably withheld; and (c) Landlord or Tenant may take photographs or video of the Project and its construction and operation and may use such photographs and video in their reasonable discretion to promote the Property or Building or similar solar projects. Notwithstanding anything contained herein to the contrary, no press release, social media posting or other published information by one party may mention the name of the other party or its parents or Affiliates, without the prior written consent of the non-publishing party, and all disclosures of economic and financial terms of this Lease shall be subject to the confidentiality provisions of Section 20.

14 Hazardous Substances. Except for "Hazardous Materials" (defined below) contained in (i) products used by Tenant in de-minimis quantities for ordinary cleaning purposes, and (ii) the Solar Facilities, potentially including but not limited to cadmium or such other materials contained therein but in compliance with Environmental Requirements, Tenant shall not permit or cause any

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party to bring any Hazardous Material upon the Leased Premises without Landlord's prior written consent. Tenant at its sole cost and expense, shall operate its business in the Leased Premises in strict compliance with all "Environmental Requirements" (defined below) and shall remediate in accordance with any applicable Environmental Requirements any Hazardous Materials released on or from the Building or Property by the Tenant Parties. The term "**Environmental Requirements**" means all applicable present and future statutes, regulations, ordinances, rules, codes, judgments, orders or other similar enactments of any governmental authority or agency regulating or relating to health, safety, or environmental conditions on, under, or about the Leased Premises or the environment, including without limitation, the following: the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; and all state and local counterparts thereto, and any regulations or policies promulgated or issued thereunder. The term "**Hazardous Materials**" means and includes any substance, material, waste, pollutant, or contaminant listed or defined as hazardous or toxic, under any Environmental Requirements, asbestos and petroleum, including crude oil or any fraction thereof, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). As defined in Environmental Requirements, during the Term, Tenant is and shall be deemed to be the "operator" of Tenant's "facility" and the "owner" of all Hazardous Materials brought on the Leased Premises by Tenant, its agents, employees, contractors or invitees, and the wastes, by-products, or residues generated, resulting, or produced therefrom. Landlord represents to Tenant that to the best of Landlord's current, actual knowledge that there has been no release of Hazardous Materials in reportable quantities on the Property. The phrase "current, actual knowledge of Landlord" shall mean and refer only to the current, actual knowledge of the officers of Landlord having direct, operational responsibility for the Property, with the express limitations and qualifications that the knowledge of any contractor or consultant shall not be imputed to Landlord, and none of such officers has made any special investigation or inquiry, and none of such officers has any duty or obligation of diligent investigation or inquiry, or any other duty or obligation, to acquire or to attempt to acquire information beyond or in addition to the current, actual knowledge of such persons.

Tenant shall indemnify, defend, and hold Landlord harmless from and against any and all third party losses, claims, demands, actions, suits, damages (including, without limitation, punitive damages), expenses (including, without limitation, remediation, removal, repair, corrective action, or cleanup expenses), and costs (including, without limitation, actual attorneys' fees, consultant fees or expert fees) which are brought or recoverable against, or suffered or incurred by Landlord to the extent of any release of Hazardous Materials for which the Tenant is obligated to remediate as provided in the first paragraph of this Section 14 or any other breach of the requirements under this Section 14 by the Tenant Parties, as applicable, regardless of whether Tenant had knowledge of such noncompliance. The obligations of Tenant under this Section 14 shall survive any termination of this Lease.

15 Condemnation/Right to Termination. If the whole or any part of the Leased Premises, Building, or the Property (including the parking areas) shall be taken by power of eminent domain or condemned by any competent authority for any public or quasi-public use or purpose, or if any

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adjacent property or street shall be so taken or condemned, or reconfigured or vacated by such authority in such manner as to require the use, reconstruction or remodeling of any part of the Leased Premises, Building or Property, or if Landlord shall grant a deed or other instrument in lieu of such taking by eminent domain or condemnation, or if such grant or taking has a material adverse impact on Tenant's reasonable ability to use the Leased Premises as intended, as reasonably determined by Tenant, should be taken for any public or quasi-public use under governmental law, ordinance, or regulation, or by right of eminent domain, or by private purchase in lieu thereof (a "**Taking**" or "**Taken**"), and the Taking would prevent or materially interfere with Tenant's Permitted Use of the Leased Premises (preventing or material interference with Tenant's Permitted Use being defined as rendering more than ten percent (10%) of the Leased Premises unusable for the Solar Facilities) or in Landlord's judgment would materially interfere with or impair its ownership or operation of the Property (material interference with, or impairment to the ownership or operation of the Property being defined as (a) reconfiguration or restoration will cost in excess of twenty-five percent (25%) of the current replacement cost of the Building, (b) Landlord's lender will not permit any taking award to be used to restore or reconfigure the Building or (c) twenty-five percent (25%) of the Building is untenantable or (d) the taking would render Building systems inoperable and such systems not be repaired within 180 days of such taking), then upon written notice by Landlord or Tenant (as applicable) to the other party this Lease shall terminate, and Rent shall be apportioned as of the date the Taking became effective. Landlord shall be entitled to receive the award or payment in connection therewith. Tenant may pursue its own award or payment relative to the Solar Facilities, to the extent that it does not diminish Landlord's award or payment. No Lost Energy Revenue shall be payable in connection with a Taking.

16 Damage and Destruction.

16.1 In the event the Building or Property is materially damaged as a result of a casualty event, and Landlord or any tenant of the Building or Property (not including Tenant) shall have a right to terminate any lease for the Building or Property and Landlord or such tenants actually elect to terminate all said leases, then Landlord shall have the right to terminate this Lease, effective as of the date of such termination, upon delivery of ninety (90) days' prior written notice to Tenant. Notwithstanding any provision to the contrary set forth herein, if any such casualty shall have damaged the Leased Premises or a portion thereof or any portion of the Rooftop or the Common Areas necessary for the Permitted Use and as a result of such damage the Leased Premises are unfit, and provided that Landlord does not elect to terminate this Lease pursuant to Landlord's termination right as provided above, and either (a) the repairs cannot, in the reasonable opinion of Landlord's contractor, be completed within ninety (90) days after being commenced, or (b) the damage occurs during the last twelve months of the Lease Term, Tenant may elect, no earlier than thirty (30) days after the date of the damage and not later than ninety (90) days after the date of such damage, to terminate this Lease by written notice to Landlord effective as of the date specified in the notice, which date shall not be less than thirty (30) days nor more than sixty (60) days after the date such notice is given by Tenant.

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16.2 If neither Landlord nor Tenant terminate this Lease, Landlord shall repair and restore the Property and/or Building promptly and diligently, subject to reasonable delays for insurance adjustment or other matters beyond Landlord's reasonable control. Such restoration shall be to substantially the same condition of the Property, Building and the Leased Premises prior to the casualty, except for modifications required by zoning and building codes and other laws or by the holder of a mortgage on the Property and/or Building, or any other modifications to the Common Areas deemed desirable by Landlord. Landlord shall not be liable for any inconvenience or annoyance to Tenant or its visitors, or injury to Tenant's business resulting in any way from such damage or the repair thereof. Landlord shall allow Tenant a proportionate abatement of Rent, during the time and to the extent the Leased Premises is unfit for the use permitted under this Lease, and not used by Tenant as a result thereof; provided, that if such casualty was caused by Tenant or Tenant Parties, Rent shall be abated only to the extent Landlord is compensated for the same by loss of rents insurance, if any, and if Tenant caused such casualty, Landlord shall have the right to recover damages from Tenant (whether or not required to be covered by insurance hereunder). In addition, no Lost Energy Revenue, shall be due in connection with any casualty event.

17 Miscellaneous.

17.1 Transfer of Landlord’s Interest. Tenant acknowledges that Landlord has the right to transfer all or any portion of its interest in the Property and Building and in this Lease without Tenant's consent, and Tenant agrees that in the event of any such transfer and written notice thereof to Tenant, Landlord shall be released from all remaining liability under this Lease provided that such transferee of Landlord assumes all of Landlord’s obligations and covenants under this Lease, in writing, as of the date of such assignment or transfer, in which case Tenant agrees to look solely to such transferee for the performance of Landlord's obligations hereunder after the date of transfer. Landlord agrees that in the event Landlord transfers ownership of the Property and/or Building, Landlord shall assign its rights and obligations hereunder to such acquirer of the Property and/or Building.

17.2 Limitation of Liability.

17.2.1 Limitation of Landlord’s Liability Landlord shall be liable only for breaches of Landlord’s obligations occurring while Landlord is owner of the fee of which the Property are a part (provided, however, that if Landlord shall ever sell and lease-back such fee, or the ground thereof or the improvements thereon, then “fee” shall, in such event, be deemed to mean Landlord’s leasehold interest). Tenant (and all persons claiming by, through or under Tenant) agrees to look solely to Landlord’s interest from time to time in the Property (including the uncollected rents, issues, profits, and proceeds thereof, subject to the superior rights of mortgagees therein) for satisfaction of any claim or recovery of any judgment from Landlord; it being agreed that except for Landlord, none of the other Landlord Parties shall ever be personally or individually liable for any claim or judgment,

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or otherwise, to Tenant (or such persons). In no event shall Landlord ever be answerable or liable in any equitable judicial proceeding or order beyond the extent of such interest in the Property.

17.2.2 Limitation of Tenant's Liability. Landlord shall not look to the property or assets of any partners, shareholders, officers, directors, employees, principals, managers, parents, agents and members of Tenant (collectively, "**Tenant Principals**") in seeking either to enforce Tenant's obligations under this Lease or to satisfy a judgment for Tenant's failure to perform such obligations; and none of the Tenant Principals shall be liable for the performance of Tenant's obligations under this Lease, and that no property or assets of any Tenant Principals, shall be subject to levy, execution or other enforcement procedure for satisfaction of Landlord's remedies arising out of such obligations.

17.3 Brokers. Except as otherwise provided in Section 3.4, each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all Claims with respect to any commission or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any broker or agent. The terms of this Section shall survive the expiration or earlier termination of the Term of this Lease.

17.4 Notice from One Party to the Other. All notices, consents, approvals and the like shall be in writing and shall be delivered in hand by any courier service providing receipts, by a nationally recognized overnight courier providing receipts, or mailed by certified mail addressed to Landlord or Tenant as set forth below. Notices may be given by electronic mail, provided that written notice using one of the other approved methods set forth herein follows within one (1) business day thereafter. If requested, Tenant shall deliver copies of all notices in like manner to Landlord's mortgagees and other persons having a relationship to the Property at such address as designated from time to time by Landlord or such mortgagee. Any notice so addressed shall be deemed duly given on the second business day following the day of mailing if so mailed by registered or certified mail, return receipt requested, whether or not accepted, or if by hand or by overnight courier upon actual receipt by any person reasonably appearing to be an agent or employee working in the executive offices of the addressee.

If to Tenant:

Silver Spring Kost CSG 1 LLC
3050 Peachtree Road, Suite 460
Atlanta, GA 30305
Attn: Robert Hatton, VP of Real Estate
E-mail: rhatton@dimension-energy.com

With a copy to:

Perspective Law Group, P.C.

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11100 Santa Monica Blvd., Suite 780
Los Angeles, CA 90024
Attn: Jason R. Morgan
Email: jason@perspectivelg.com

If to Landlord:

c/o New York Life Real Estate Investors
51 Madison Avenue, 19th Floor
New York, NY 10010
Attention: Real Estate, Asset Management Division
Email:

With a copy to:
New York Life Insurance Company
51 Madison Avenue, Suite 1016
New York, NY 10010
Attention: Office of the General Counsel, Real Estate Dept.
Email:

With an additional copy to:

Sherin and Lodgen LLP
One Lincoln Street, 14th Floor
Boston, Massachusetts 02111
Attn: Jennifer Ioli Connelly
Email: jiconnelly@sherin.com

Any address or name specified above may be changed by notice given to the addressee by the other party in accordance with Section 17.5 of this Lease. The inability to deliver notice because of a changed address of which no notice was given as provided above, or because of rejection or other refusal to accept any notice, shall be deemed to be the receipt of the notice as of the date of such inability to deliver or rejection or refusal to accept. Any notice to be given by any party hereto may be given by the counsel for such party.

17.5 Governing Law. This Lease shall be governed by and construed under the laws of the state in which the Property is located.

17.6 Attorney's Fees. In any action to enforce the terms of this Lease, including any suit by Landlord for the recovery of the Rent or other rents or sums payable by Tenant under this Lease, or possession of the Leased Premises, the non-prevailing party shall pay the prevailing party a reasonable sum for attorneys' fees in such matter or suit, including on appeal.

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17.7 Partial Invalidity. If any term, provision or condition contained in this Lease shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and each and every other term, provision and condition of this Lease shall be valid and enforceable to the fullest extent possible permitted by law.

17.8 Counterparts. This Lease may be executed in counterparts, each of which shall be deemed an original, but such counterparts, when taken together, shall constitute one agreement.

17.9 Memorandum of Lease. Tenant shall have the right, at Tenant's sole cost and expense, to record a Memorandum of Lease in substantively the same form as attached hereto as **Schedule "D"**, and Landlord agrees that upon Tenant's request, Landlord shall properly execute and notarize such Memorandum of Lease. Landlord shall have the right, at Landlord's sole cost and expense, to record a Termination of Memorandum of Lease in the form attached hereto as **Schedule "E,"** upon the expiration of this Lease (subject to any options in favor of Tenant to extend or renew the Term) or upon the earlier termination of this Lease, except if such termination is due to Landlord's default hereunder. Tenant agrees that upon Landlord's request, Tenant shall promptly execute and notarize such Termination of Memorandum of Lease at any time following such expiration or earlier termination of this Lease and if Tenant fails to so execute and deliver to Landlord such Termination of Memorandum of Lease within ten (10) days of Landlord's request therefor, Tenant hereby authorizes Landlord to act as Tenant's attorney in fact for the express purpose of executing and delivering such Termination of Memorandum of Lease. Notwithstanding anything to the contrary contained herein, in the event Landlord records the Termination of Memorandum of Lease prior to the expiration or earlier termination of this Lease, and as a result of such recordation Tenant is unable to finance, transfer, entitle, securitize, construct, maintain or operate the Solar Facilities, then such recordation shall be deemed an Event of Default by Landlord as of the date of such recordation without any notice and cure period and Tenant shall be entitled to Lost Energy Revenue resulting from such Event of Default by Landlord.

17.10 Entry by Landlord. Landlord reserves the right at all reasonable times and upon at least 48 hours prior written notice to Tenant (except in the case of an Emergency) to enter the Leased Premises to inspect them.

17.11 Entire Agreement. It is understood and acknowledged that there are no oral agreements between the parties hereto affecting this Lease and this Lease constitutes the parties' entire agreement with respect to the leasing of the Leased Premises and supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. None of the terms, covenants, conditions or provisions of this Lease can be modified, deleted or added to except in writing signed by the parties hereto.

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[redacted]

17.13 Ownership of Environmental Attributes. Landlord acknowledges that Tenant or its affiliate or transferee is the exclusive owner of the Environmental Attributes and Environmental Incentives of and arising from the Solar Facilities. "**Environmental Attributes**" means the non-energy environmental and/or social characteristics, credits, benefits, reductions, offsets, and/or allowances, howsoever entitled, attributable to the Solar Facilities, including without limitation carbon trading credits, renewable credits, green tags, Green-e products, accelerated depreciation, tax incentives or benefits, any avoided emissions of substances to air, soil, or water, such as nitrous oxide (NOx), carbon monoxide (CO), mercury (Hg), carbon dioxide (CO2), methane (CH4),or other greenhouse gases (GHGs) designated by the United Nations Intergovernmental Panel on Climate Change, and any other pollutant that is now or may be in the future regulated and tradable, whether or not such legislation, regulation or trading program is ever implemented. Environmental Attributes do not include any energy, capacity, reliability or other power attributes associated with the generation of electricity, or any liabilities associated with such generation, and do not include any tax credits, incentives or rebates which may accrue as a result of implementing the Solar Facilities. "**Environmental Incentives**" means: (i) federal, state or local tax credits; (ii) grants or subsidies in support of renewable energy; (iii) emission reduction credits used for compliance with applicable laws or permits; and (iv) all other rebates, benefits, reductions, tax credits, offsets, deductions, allowances or entitlements of any kind resulting from the Environmental Attributes or the installation and operation of the Solar Facilities.

17.14 Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, acts of war, terrorist acts, inability to obtain services, labor, or materials or reasonable substitutes therefor (at Landlord's reasonable discretion), governmental actions, civil commotions, fire or other casualty, epidemics or pandemics (including the current pandemic caused by Covid-19) and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations imposed with regard to Rent and other charges to be paid by Tenant pursuant to this Lease (collectively, a "**Force Majeure**"), notwithstanding anything to the contrary contained in this Lease, shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure. Notwithstanding the foregoing or any other provision of this Lease, a Force Majeure shall not affect Tenant's right to abate Rent as expressly set forth elsewhere in this Lease. In the event that any Force Majeure event lasts more than twenty-four (24) months, either party may terminate this Lease.

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18 Representations and Warranties of Landlord. Landlord represents and warrants to Tenant as follows:

18.1 No Other Agreements. Landlord has not leased or granted any other rights to the Leased Premises.

18.2 Full Power and Authority. Landlord has lawful title to and is the fee owner of the Property, Building and Leased Premises and has the full power and authority to enter into this Lease and that this Lease is a valid and binding obligation of Landlord, enforceable against Landlord pursuant to its terms, and the execution of this Lease does not constitute a breach or default of any other agreement to which Landlord or any affiliate is a party.

19 Tenant's Representations and Warranties. Tenant represents to Landlord that Tenant has full power and authority to enter into this Lease in accordance with its terms, and that this Lease is a valid and binding obligation of Tenant, enforceable against Tenant pursuant to its terms, and the execution of this Lease shall not constitute a breach or default of any other agreement to which Tenant or its Affiliate is a party. Tenant shall comply with all existing Building Tenant Security Measures provided that in no event shall any such Building Tenant Security Measures unreasonably restrict or modify Tenant's rights under this Lease including, without limitation, Tenant's rights to use the Leased Premises for the Permitted Use and Tenant's rights to access the Leased Premises or the parking areas. Additionally, in no event shall Tenant be obligated to comply with any such Building Tenant Security Measures unless Landlord has provided to Tenant written details of any such Building Tenant Security Measures. Tenant hereby acknowledges that a security station is currently being utilized at the Property. In connection with the foregoing, Tenant shall comply with the following access protocols of such security station: providing the driver's license of the party seeking access to the Property at the booth, and the foregoing shall be deemed one of the Building Tenant Security Measures.

20 Confidentiality. Landlord and Tenant shall maintain in the strictest confidence, for the benefit of the other party, all information pertaining to the financial terms of or payments under this Lease, unless such information (i) is in the public domain by reason of prior publication through no act or omission of the disclosing party; (ii) was already known to the disclosing party at the time of disclosure and which the disclosing party is free to use or disclose without breach of any obligation to any person or entity; or (iii) as required by a regulatory authority in connection with any regulatory proceedings governing Tenant or Landlord. Notwithstanding the foregoing, the parties hereto may disclose such information to such party's employees, agents, consultants, lenders, partners, members, attorneys, accountants and other personal financial advisors solely for use in connection with their representation of such party regarding this Lease; any prospective purchaser of the Property and/or Building who has a made a written offer to purchase or otherwise acquire the Property and/or Building that Landlord desires to accept; or pursuant to lawful process, subpoena or court order requiring such disclosure, provided in making such disclosure advises the party receiving the information of the confidentiality of the information.

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21 ERISA. Tenant represents and warrants that (a) it is not now nor shall it ever be (i) an employee benefit plan as defined under Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), whether or not subject to ERISA; or (ii) a benefit plan investor (within the meaning of Section 3(42) of ERISA); and (b) it does not nor shall it ever hold "plan assets" within the meaning of the Department of Labor Regulations at Section 2510.3-101 or the assets of any "governmental plan" as defined under Section 3(32) of ERISA.

22 OFAC. Tenant is and will remain in compliance with the requirements of Executive Order No. 13224, 66 Fed Reg. 49079 (September 25, 2001) (the "**Order**") and other similar requirements contained in the rules and regulations of the Office of Foreign Asset Control, Department of the Treasury ("**OFAC**") and in any enabling legislation or other Executive Orders in respect thereof (the Order and such other rules, regulations, legislation, or orders are collectively called the "Orders"). Tenant:

(a) is not listed on the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to the Order or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Orders (such lists are collectively referred to as the "**Lists**");

(b) has not been determined by competent authority to be subject to the prohibitions contained in the Orders;

(c) is not and will not become owned or controlled by, nor act for or on behalf of, any person or entity on the Lists or any other person or entity that has been determined by competent authority to be subject to the prohibitions contained in the Orders;

(d) is not knowingly engaged in, and will not knowingly engage in, any dealings or transactions or be otherwise associated with such persons or entities on the Lists or that has been determined by competent authority to be subject to the prohibitions contained in the Orders; and

(e) agrees to cooperate with Landlord in providing such additional information and documentation on Tenant's legal or beneficial ownership, policies, procedures and sources of funds as Landlord reasonably deems necessary or prudent solely to enable it to comply with Orders or anti-money laundering laws as now in existence or hereafter amended.

Any breach or violation of this Section 22 shall, at Landlord's option, constitute an Event of Default by Tenant under this Lease.

23 Schedules. The Schedules to this Lease are as follows:

Exhibit A	Legal Description of the Property
Exhibit B	Rent Schedule
Exhibit C	Insurance
Schedule A	Leased Premises

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Schedule A-1	Specifications of the Solar Facilities
Schedule A-2	Depiction of the Ground License Area
Schedule A-3	Depiction of the Cable License Area
Schedule A-4	Depiction of the Construction License Area
Schedule A-5	Depiction of the Ladder License Area
Schedule B	Commencement Date Certificate
Schedule C	Approved Plans and Specifications
Schedule D	Form of Memorandum of Lease
Schedule E	Form of Notice of Termination
Schedule F	Decommissioning Account
Schedule G	Maximum Landlord Tax Credit Exposure
Schedule H	Projected Energy Production
Schedule I	Termination Payment
Schedule J	Exclusive Use Areas

[Signatures follow on next page]

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IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date and year first above written.

LANDLORD

PA 180 Kost Rd LLC,
a Delaware limited liability company

By: DocuSigned by: Amanda Voetsch 7B167ECE7BE34D9...
Name: Amanda Voetsch
Title: Vice President

TENANT

SILVER SPRING KOST CSG 1 LLC,
a Pennsylvania limited liability company

By: Sam Younes
Name: Sam Younes
Title: Authorized Person

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EXHIBIT A

Legal Description of Property

PARCEL "A":

ALL THAT CERTAIN tract of land.

SITUATE in the Township of Silver Spring, County of Cumberland and Commonwealth of Pennsylvania, being more particularly bounded and described as follows:

BEGINNING at a point, said point being a spike within the Paved Cartway of Kost Road, said point also being on the Southerly R/W line for lands now or formerly of Penn Central Railroad; thence along said R/W line for Penn Central Railroad along a curve to the right having a radius of 11,419.20 feet, and an arc length of 723.69 feet to a point; thence South 0 degrees 52 minutes 31 seconds East, 578.94 feet to a point; thence South 89 degrees 07 minutes 29 seconds West, 90.00 feet to a point; thence along a curve to the left having a radius of 75.00 feet, and an arc length of 117.81 feet to a point; thence South 89 degrees 07 minutes 29 seconds West, 535.03 feet to a point on Westerly property line of Parcel B; thence along said Westerly property line North 3 degrees 18 minutes 00 seconds West, 670.51 feet to a spike, the point and place of beginning.

The above described tract contains 464,295.5464 square feet, 10.6587 acres.

BUT not including in Parcel "A" that portion of said parcel conveyed to Silver Spring Township as recorded in the Cumberland County Recorder of Deeds Office in Deed Book "K", Volume 29, Page 397.

PARCEL "B":

ALL THAT CERTAIN tract of land.

SITUATE in the Township of Silver Spring, County of Cumberland and Commonwealth of Pennsylvania, being more particularly bounded and described as follows:

BEGINNING at a point, said point being & spike within the Paved Cartway of Kost Road, said point also being on the Southerly R/W line for lands now or formerly of Penn Central Railroad; thence along said R/W line for Penn Central Railroad along a curve to the right having a radius of 11,419.20 feet, and an arc length of 728.69 feet to the point and place of beginning; thence South 0 degrees 52 minutes 31 seconds East 578.94 feet to a point; thence South 89 degrees 07 minutes 29 seconds West 90.00 feet to a point; thence along a curve to the left having a radius of 75.00 feet, and an arc length of 117.81 feet to a point; thence South 89 degrees 07 minutes 29 seconds West 535.03 feet to a point which is South 03 degrees 18 minutes 00 seconds East 670.51 feet from the spike in the Paved Cartway of Kost Road first above mentioned; thence South 03 degrees 18 minutes 00 seconds East 380.10 feet to a point; thence South 14 degrees 30 minutes 0 seconds East 284.73 feet to an iron pin; thence North 89 degrees 07 minutes 29 seconds East along the Northerly line of property of lands now or formerly of Harry W. Deitch 2,839.79 feet to a post; thence North 12 degrees 51 minutes 37 seconds West 1,050.32 feet along the Westerly line of property of lands now or formerly of Jesse N. Aycock to an iron pin; thence along the Southerly R/W line for Penn Central Railroad the following two courses and distances:

North 79 degrees 16 minutes 40 seconds West 330.30 feet to a point and along a curve to the left having a radius of 11,419.20 feet an arc length of 1,696.73 feet to the point and place of beginning.

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BUT not including the following parcel:

BEGINNING at a point, said point being a spike within the Paved Cartway of Kost Road, said point also being on the Southerly R/W line for lands now or formerly of Penn Central Railroad; thence within the Paved Cartway of said Kost Road, the following two courses and distances:

South 03 degrees 18 minutes 00 seconds East 1,050.61 feet to a point and South 14 degrees 30 minutes 00 seconds East 284.73 feet to an iron pin; thence North 89 degrees 07 minutes 29 seconds East 1,690.54 feet along the Northerly line of property of lands now or formerly of Harry W. Deitch to a point; thence North 00 degrees 52 minutes 31 seconds West 780 feet to the point and place of beginning; thence South 89 degrees 07 minutes 29 seconds West 486.00 feet to a point, said point being the edge of an Operations Building; thence North 0 degrees 52 minutes 31 seconds West 206.50 feet to a point, also being edge of Operations Building, then North 89 degrees 07 minutes 29 seconds East 486.00 feet to a point; thence South 0 degrees 52 minutes 31 seconds East 206.50 feet to the point and the place of beginning.

BUT not including in Parcel B that portion of said parcel conveyed by a deed to Silver Springs Township recorded in the Cumberland County Recorder of Deeds Office in Deed Book "K", Volume 29, Page 397.

PARCEL "C":

ALL THAT CERTAIN tract of land.

SITUATE in the Township of Silver Springs, County of Cumberland and Commonwealth of Pennsylvania, being more particularly bounded and described as follows:

BEGINNING at a point, said point being a spike within the Paved Cartway of Kost Road, said point also being on the Southerly R/W line for lands now or formerly of Penn Central Railroad; thence within the Paved Cartway of said Kost Road, the following two courses and distances:

South 03 degrees 18 minutes 00 seconds East 1,050.61 feet to a point and South 14 degrees 30 minutes 00 seconds East 284.73 feet to an iron pin; thence North 89 degrees 07 minutes 29 seconds East 1,690.54 feet along the Northerly line of property of lands now or formerly of Harry W. Deitch to a point; thence North 00 degrees 52 minutes 31 seconds West 780 feet to the point and place of beginning; thence South 89 degrees 07 minutes 29 seconds West 486.00 feet to a point, said point being the edge of an Operations Building; thence North 0 degrees 52 minutes 31 seconds West 206.50 feet to a point, also being edge of Operations Building, then North 89 degrees 07 minutes 29 seconds East 486.00 feet to a point; thence South 0 degrees 52 minutes 31 seconds East 206.50 feet to the point and the place of beginning.

The above described Parcel contains 100,359.00 square feet, 2.30 acres.

Being the same premises which Silver Spring Office L.L.C., a Delaware limited liability company, Silver Spring Warehouse, L.L.C., a Delaware limited liability company and Silver Spring Warehouse II, L.L.C., a Delaware limited liability company by Deed dated 9-22-2006 and recorded 10-31-2006 in Cumberland County in Record Book 277 Page 1762 conveyed unto Silver Springs Industrial Park, LP, a Pennsylvania limited partnership, in fee.

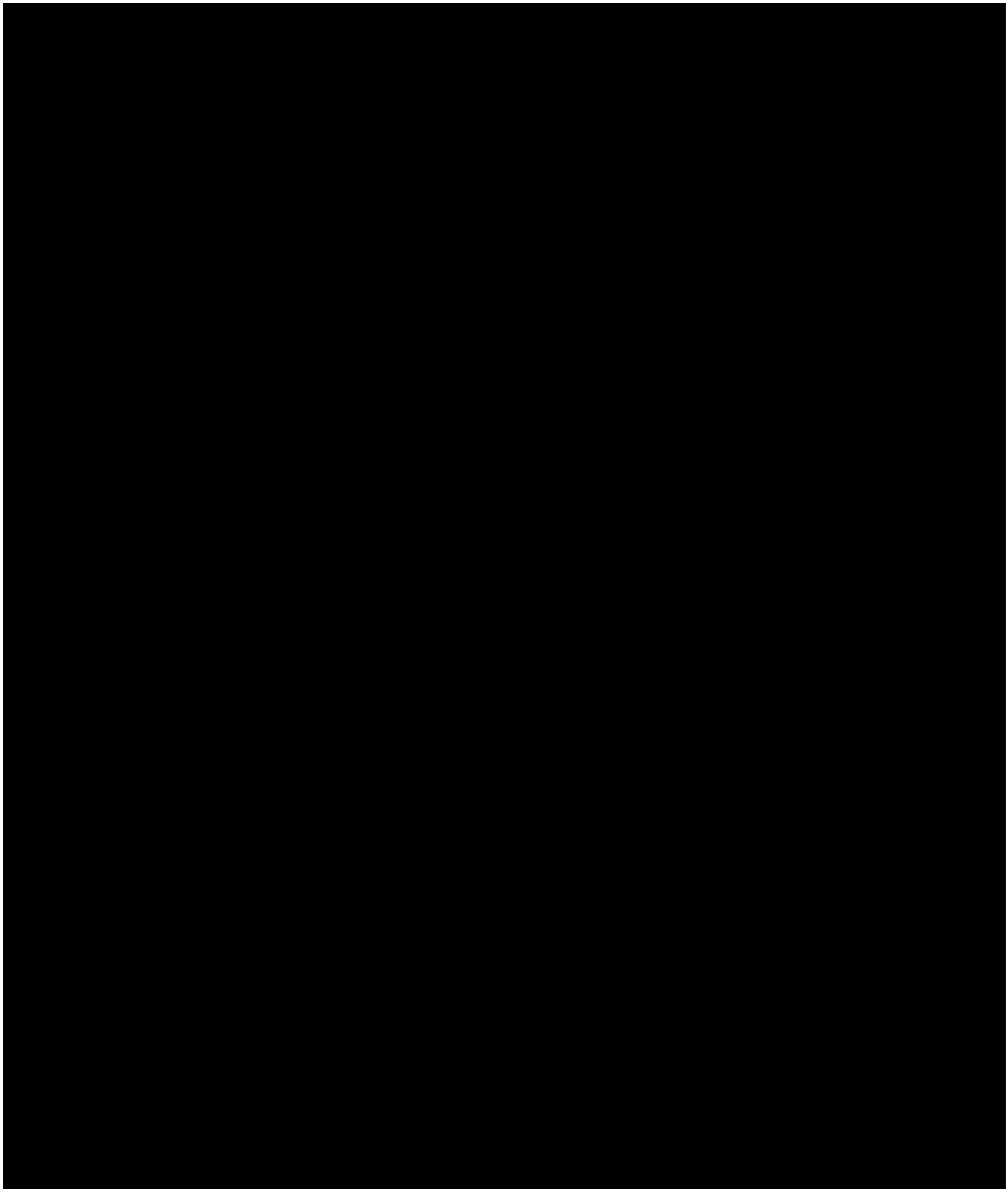
Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

EXHIBIT B

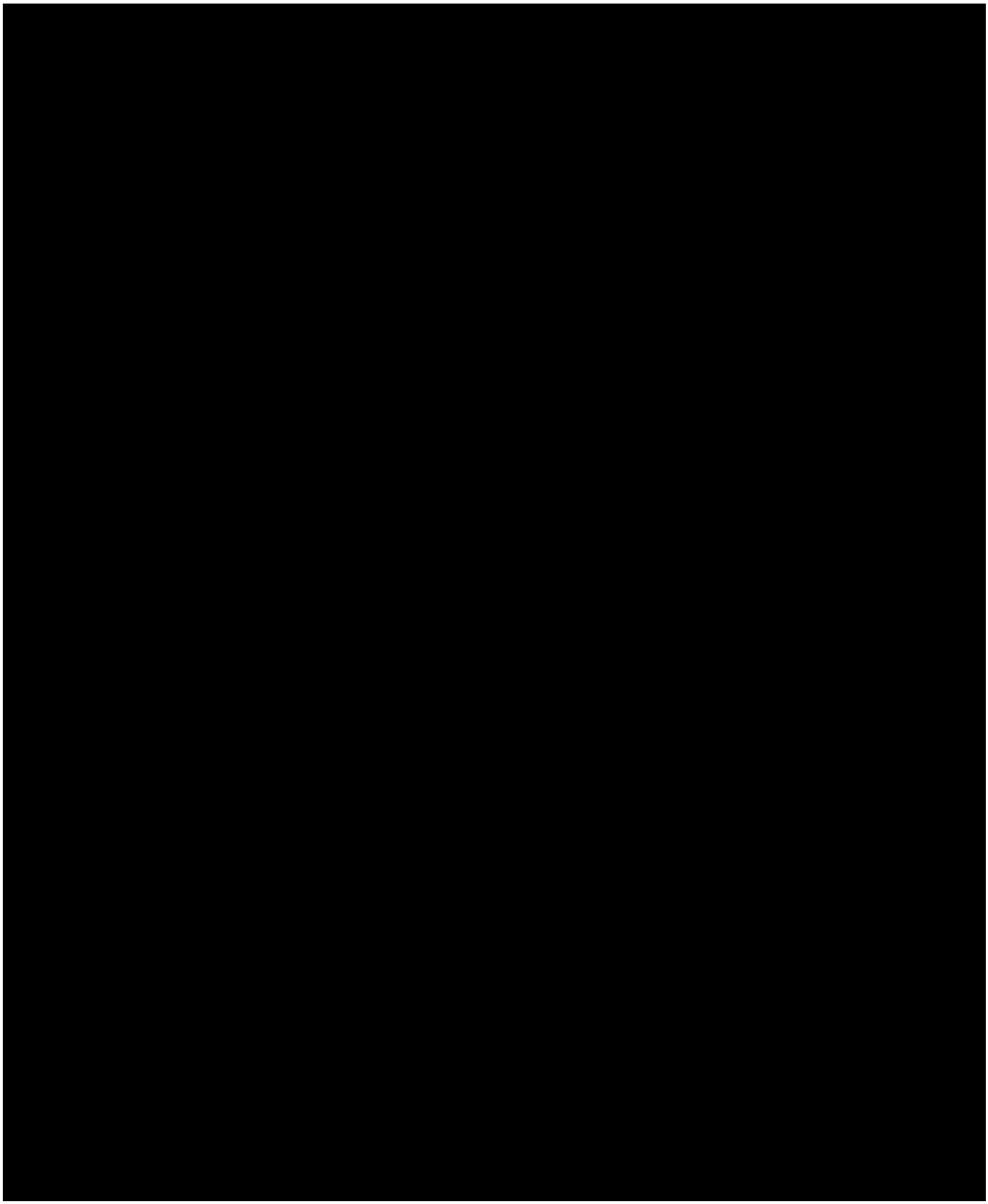


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EXHIBIT C



Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF



Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

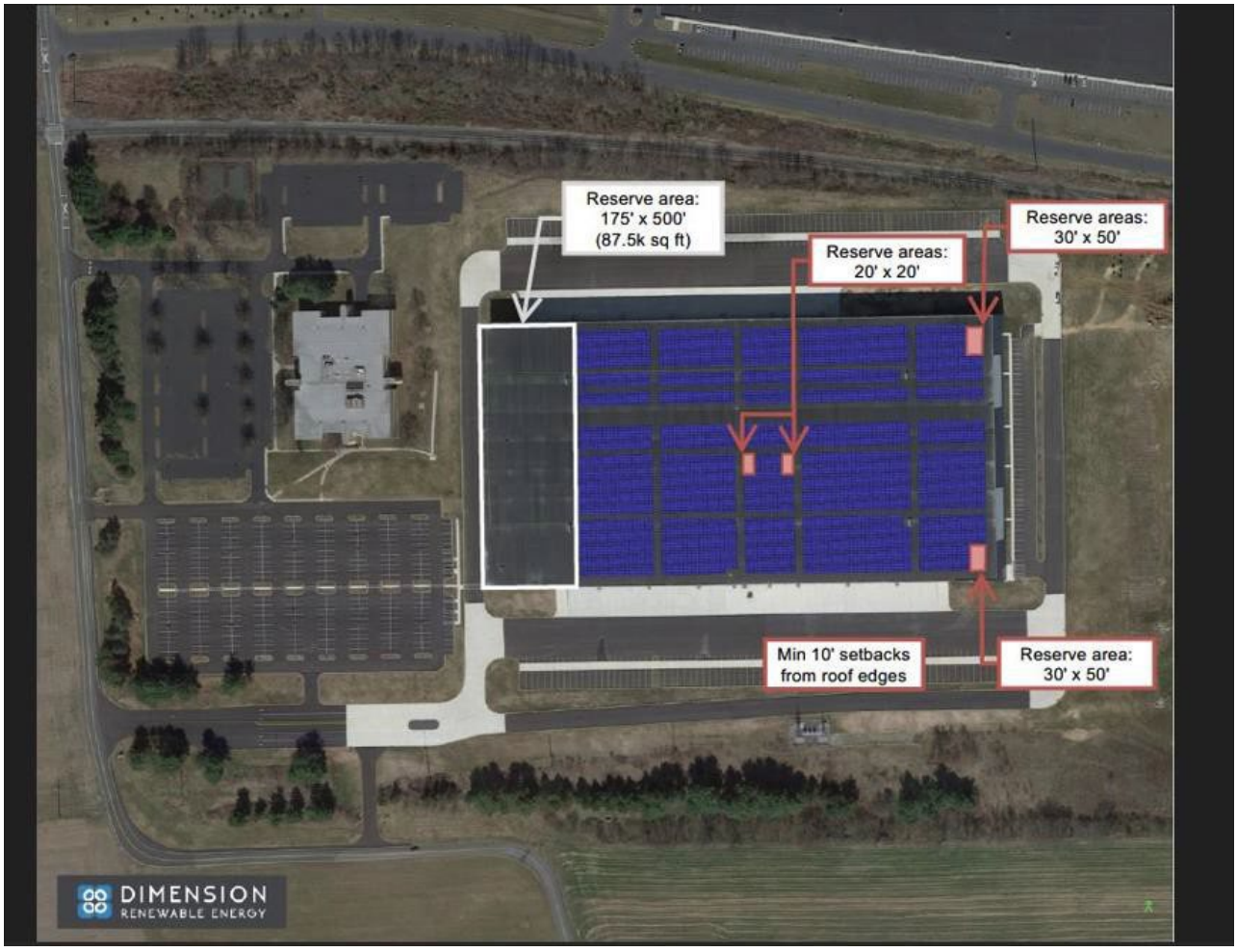


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SCHEDULE A

Leased Premises

(Represented by blue solar panels)



Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

SCHEDULE A-1

Specifications of the Solar Facilities

Specifications to be provided by Tenant for Landlord's consent, which consent shall not be unreasonably withheld, conditioned, or delayed, and shall be provided or not granted within twenty (20) days following Tenant's request.

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

SCHEDULE A-2

Description of the Ground License Area

To be provided by Tenant for Landlord's consent which consent shall not be unreasonably withheld, conditioned or delayed, and shall be provided or not granted within twenty (20) days following Tenant's request.

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

SCHEDULE A-3

Description of the Cable License Area

To be provided by Tenant for Landlord's consent which consent shall not be unreasonably withheld, conditioned or delayed, and shall be provided or not granted within twenty (20) days following Tenant's request.

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

SCHEDULE A-4

Description of the Construction License Area

To be provided by Tenant for Landlord's consent which consent shall not be unreasonably withheld, conditioned or delayed, and shall be provided or not granted within twenty (20) days following Tenant's request.

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

SCHEDULE A-5

Description of the Ladder License

To be provided by Tenant for Landlord's consent which consent shall not be unreasonably withheld, conditioned or delayed, and shall be provided or not granted within twenty (20) days following Tenant's request.

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

SCHEDULE B

COMMENCEMENT DATE CERTIFICATE

Notice Contact Name Company Name Notice Street Address City, State Zip Code

RE: Lease dated Date between Customer & Owner for Premises Address

Dear Salutation Notice Contact Last Name:

We would like to confirm the terms of the above referenced lease agreement: Commercial

Operation Date: Date
Expiration Date: Date

We are pleased to welcome you as a customer of [Landlord] and look forward to working with you. Please indicate your agreement with the above information pertaining to the lease described above by signing and returning the enclosed copy of this letter to me. If I can be of service, please do not hesitate to contact me.

Sincerely,

Property Manager Name Title

Accepted by: Accepted by Date: Date

By: _____

Printed: _____

Title: _____

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

SCHEDULE C

Approved Plans and Specifications

To be provided by Tenant for Landlord's consent, which consent shall not be unreasonably withheld, conditioned or delayed, and shall be provided or withheld within twenty (20) days following Tenant's request in accordance with the terms of the Lease.

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

SCHEDULE D

Form of Memorandum of Lease

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("Memorandum") made as of the _____ day of _____, 20 , by and between _____ ("Tenant"), and _____ ("Landlord").

WITNESSETH

A. WHEREAS, Landlord and Tenant have entered into that certain Solar Rooftop Lease, dated [_____] (the "**Lease**"), pursuant to which Tenant leases from Landlord and Landlord leases to Tenant approximately [_____] square feet of space (the "**Premises**") located on the rooftop of that certain building located at [_____], and legally described on Exhibit A, attached hereto (the "**Property**").

B. WHEREAS, the parties hereto desire to enter into this Memorandum of Lease for the purpose of recording a document in the Property Records of [_____] County, Pennsylvania, that will provide public notice of the existence of the Lease and certain of its terms and conditions.

NOW, THEREFORE, the parties hereto do hereby certify and agree as follows:

1. Capitalized Terms. Capitalized terms used herein and not otherwise defined in this Memorandum of Lease shall have the meanings ascribed to them in the Lease.

2. Lease of Premises. Landlord leases to Tenant, and Tenant leases from Landlord, for the term of the Lease and subject to the provisions of the Lease, to each of which Landlord and Tenant mutually agree, the Premises.

3. Term. The term of the Lease is for _____ years. When the exact commencement and termination dates of the initial term of the Lease are determined, the parties agree to execute a recordable supplement to this Memorandum which will set forth such dates.

4. Improvements. Notice is hereby given that the Solar Facility, as defined in the Lease, located or constructed on the Property Term shall at all times retain the status of personal property and shall in all cases be deemed to be Tenant's personal property and shall not be considered to be fixtures to the Property. Reference is hereby made to the Lease for a more particular description of the title to all such Solar Facility.

5. Incorporation of Lease. This Memorandum is for informational purposes only and nothing contained herein shall be deemed to in any way modify or otherwise affect any of the terms and conditions of the Lease, the terms of which are incorporated herein by reference. This instrument is merely a memorandum of the Lease and is subject to all of the terms, provisions and conditions of the Lease. In the event of any inconsistency between the terms of the Lease and this instrument, the terms of the Lease shall prevail.

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

6. Binding Effect. The rights and obligations set forth herein shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

[Signature Page Follows]

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above written.
Signed, sealed and delivered in the presence of.

LANDLORD:

_____

By: _____
(Name – Please print)

_____

_____
(Name – Please print)

TENANT: _____

_____ By: _____

_____
(Name – Please print)

_____

_____

(Name – Please print)

[Acknowledgements Follow]

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

COMMONWEALTH / STATE OF _____

COUNTY OF _____, ss.

On this _____day of _____, 2025, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, as [the Manager] of _____ LLC, and acknowledged to me that he/she, in such capacity as aforesaid, signed it voluntarily for its stated purpose on behalf of such entity.

_____

Notary Public
My Commission Expires:

COMMONWEALTH / STATE OF _____

COUNTY OF _____, ss.

On this _____day of _____, 2025, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, as [the Manager] of _____ LLC, and acknowledged to me that he/she, in such capacity as aforesaid, signed it voluntarily for its stated purpose on behalf of such entity.

_____

Notary Public
My Commission Expires:

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

SCHEDULE E

FORM OF NOTICE OF TERMINATION

WHEN RECORDED, MAIL TO:

_____
_____
_____
_____

MEMORANDUM OF TERMINATION OF LEASE

This Memorandum of Termination of Lease is executed by and between _____, a _____("Landlord"), and _____, a _____("Tenant"), pursuant to which Landlord and Tenant have terminated the below described Lease for the Property described on Exhibit A hereto:

Date of Lease: _____

Description of Property: _____, as more particularly described on Exhibit A attached hereto.

Commencement Date: _____

Memorandum of Lease: Filed for record on _____, and recorded in Volume _____, Page _____, of the Deed Records of _____County, _____.

Lease Termination Date: _____, 20_.

[Signature Page Follows]

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

IN WITNESS WHEREOF, the parties have executed this Memorandum of Termination of Lease to provide notice that, as of the Lease Termination Date set forth above, the Lease and the recorded Memorandum of Lease have been fully and finally terminated. Execution hereof may be in separate counterparts, each of which shall constitute an original but all of which together shall constitute but one and the same Memorandum of Termination of Lease.

TENANT:

_____

By:_____
Name:_____
Title:_____
Date:_____, 20_.

LANDLORD:

_____.

By:_____
Name:_____
Title:_____

Date:_____, 20_.

COMMONWEALTH / STATE OF _____

COUNTY OF _____, ss.

On this _____day of _____, 2025, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, as [the Manager] of LLC, and acknowledged to me that he/she, in such capacity as aforesaid, signed it voluntarily for its stated purpose on behalf of such entity.

_____

Notary Public
My Commission Expires:

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

COMMONWEALTH / STATE OF _____

COUNTY OF _____, ss.

On this _____day of _____, 2025, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, as [the Manager] of LLC, and acknowledged to me that he/she, in such capacity as aforesaid, signed it voluntarily for its stated purpose on behalf of such entity.

_____

Notary Public

My Commission Expires:

Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

SCHEDULE F



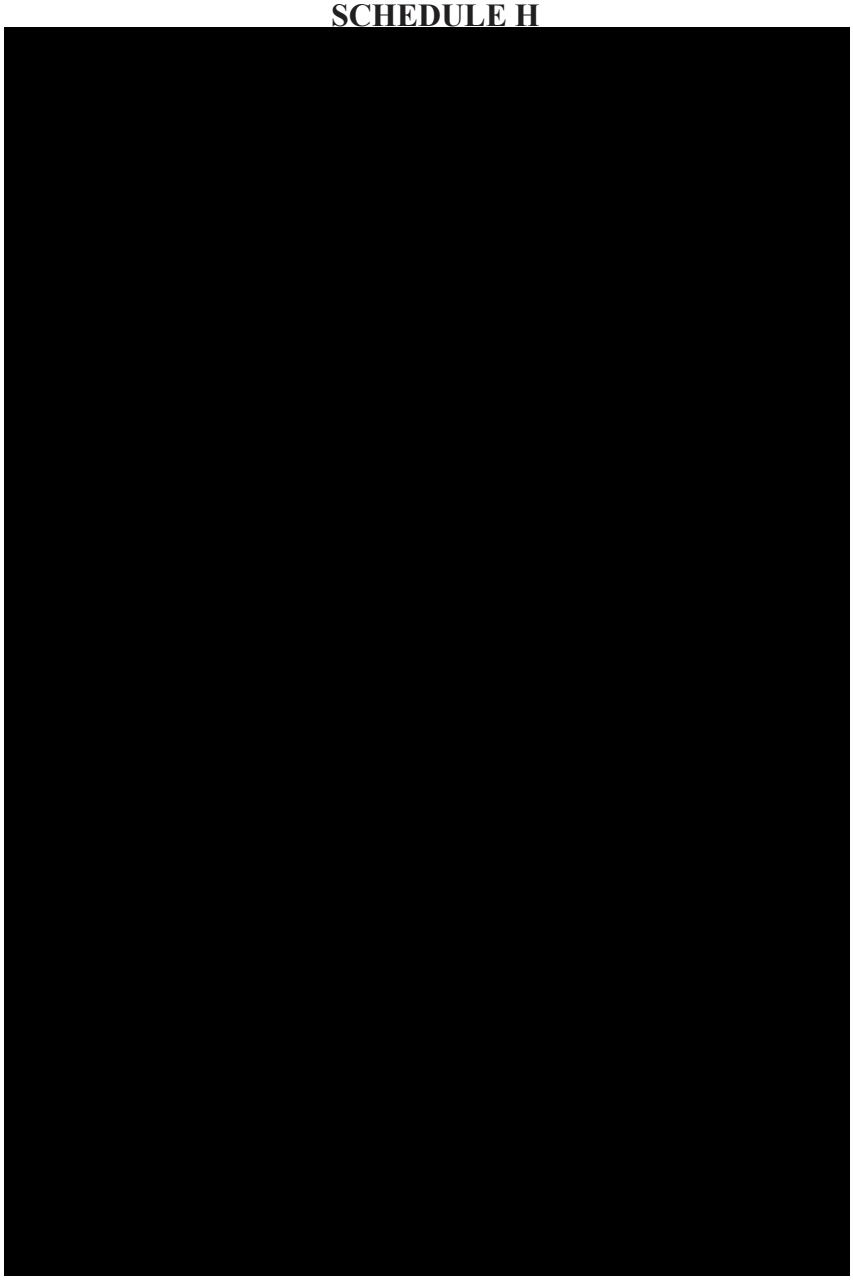
Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

SCHEDULE G



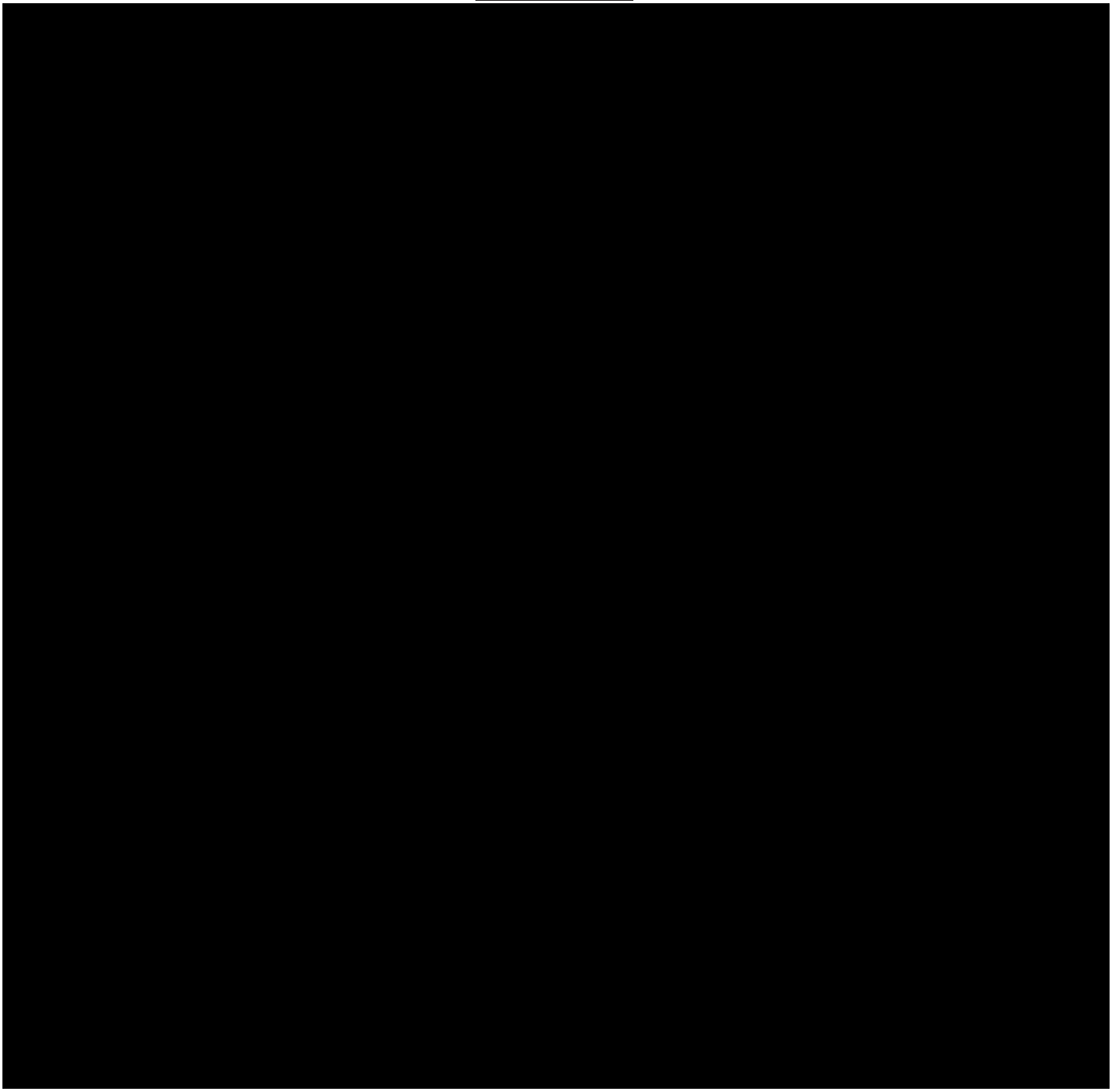
Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

SCHEDULE H



Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

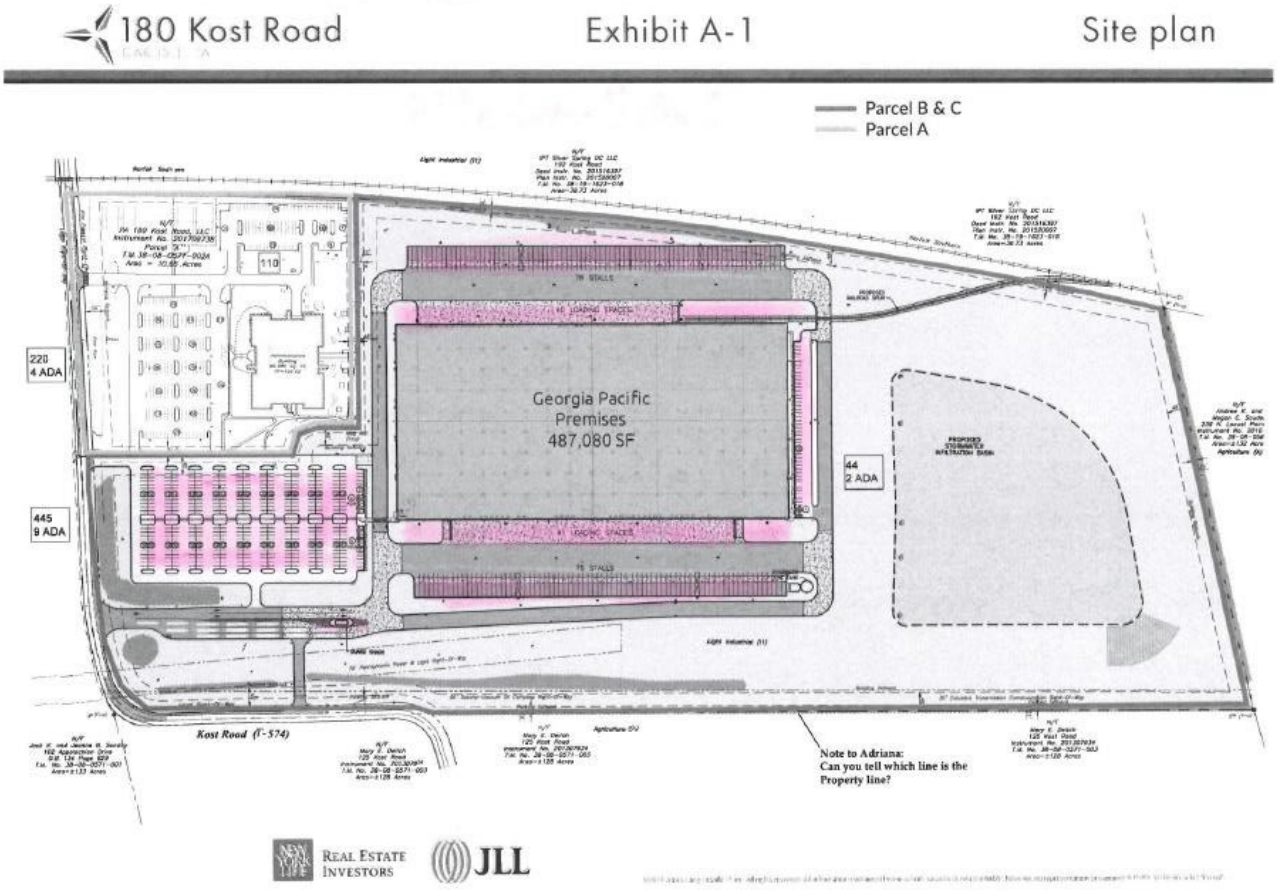
SCHEDULE I



Docusign Envelope ID: 0627E690-7716-4181-BBB9-3E0113A91DDF

SCHEDULE J

Exclusive Use Areas



Docusign Envelope ID: 6E1FA6B9-1C50-41F6-87D6-6C39282EAEDD

FIRST AMENDMENT TO SOLAR ROOFTOP LEASE

This FIRST AMENDMENT TO SOLAR ROOFTOP LEASE (this "**First Amendment**") is made and entered into as of April 14, 2025, by and between PA 180 KOST RD LLC, a Delaware limited liability company ("**Landlord**"), and SILVER SPRING KOST CSG 1 LLC, a Pennsylvania limited liability company ("**Tenant**").

R E C I T A L S:

A. Tenant, and Landlord are parties to that certain Solar Rooftop Lease, dated January 6, 2025 (the "**Original Lease**" and as amended, the "**Lease**"), pursuant to which Tenant leases from Landlord and Landlord leases to Tenant certain rooftop space (the "**Leased Premises**") located at 180 Kost Road, Carlisle, Pennsylvania 17015 (the "**Property**").

B. Landlord and Tenant desire to amend the Lease on the terms and conditions contained herein.

A G R E E M E N T:

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

1. Capitalized Terms. Except as explicitly set forth in this First Amendment, each initially capitalized term when used herein shall have the same respective meaning as is set forth in the Lease.

2. Landlord's Insurance. Effective as of the date hereof, the following is hereby inserted as Section 7.5 to the Original Lease:

> "7.5 Landlord's Insurance. To the extent the cost of any insurance policy carried by Landlord as of the Commercial Operation Date is increased solely due to the existence of, and expressly attributable to, the Solar Facilities (as applicable, the "Solar Facilities Insurance Increase"), Tenant shall pay to Landlord, annually, an amount equal to the annualized Solar Facilities Insurance Increase no later than thirty (30) days upon Tenant's receipt of an invoice therefor by Landlord, which invoice shall document such Solar Facilities Insurance Increase with a copy of the subject insurance bill and other reasonable written back-up documents which demonstrate that the Solar Facilities were the cause of such increase."

3. Brokers. Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this First Amendment, excepting only Black Bear Energy, Inc. (the "**Broker**"), and that they know of no other real estate broker or agent who is entitled to a commission in connection with this First Amendment. Tenant shall pay a commission to Broker in connection with the project located at the Property pursuant to a separate agreement between Tenant and Broker. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any real estate broker or agent other than the Broker. The terms of this Section 3 shall survive the expiration or earlier termination of the Lease, as amended.

Docusign Envelope ID: 6E1FA6B9-1C50-41F6-87D6-6C39282EAEDD

4. Conflict; No Other Modifications. Except as otherwise provided herein, all other terms and provisions of the Lease shall remain in full force and effect, unmodified by this First Amendment. In the event of any conflict between the Lease and this First Amendment, this First Amendment shall prevail.

5. Miscellaneous. This First Amendment may be executed via facsimile, PDF or other electronic transmission, and in any number of counterparts, each of which shall be considered an original and all of which, taken together, shall constitute one and the same instrument.

[signatures appear on following page]

Docusign Envelope ID: 6E1FA6B9-1C50-41F6-87D6-6C39282EAEDD

IN WITNESS WHEREOF, the parties have entered into this First Amendment as of the date first set forth above.

"LANDLORD":

PA 180 KOST RD LLC,
a Delaware limited liability company

By: DocuSigned by: Amanda Voetsch 7B167ECE7BE34D9...

Name: Amanda Voetsch

Title: vice president

"TENANT":

SILVER SPRING KOST CSG 1 LLC,
a Pennsylvania limited liability company

By: _____

Name: _____

Title: _____

Docusign Envelope ID: 7860F6C2-41F4-41A9-A3F1-860849BDA127

IN WITNESS WHEREOF, the parties have entered into this First Amendment as of the date first set forth above.

"LANDLORD":

PA 180 KOST RD LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

"TENANT":

SILVER SPRING KOST CSG 1 LLC,
a Pennsylvania limited liability company

By: Sam Younes
Name: Sam Younes
Title: Authorized Person

TOWNSHIP OF SILVER SPRING
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 5 of 2025

AN ORDINANCE OF THE TOWNSHIP OF SILVER SPRING, CUMBERLAND COUNTY, PENNSYLVANIA AMENDING CHAPTER 415 [ZONING] OF THE CODE OF THE TOWNSHIP OF SILVER SPRING, AS AMENDED, TO PROVIDE FOR SOLAR FARMS AS A CONDITIONAL USE IN THE LIGHT INDUSTRIAL (I1) ZONING DISTRICT

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of the Township of Silver Spring, Cumberland County, Pennsylvania, that the Code of the Township of Silver Spring ("the Code"), Chapter 415 [Silver Spring Township Zoning Ordinance of 2022], as amended, is hereby amended as follows:

SECTION 1:

Silve Spring Township Zoning Ordinance shall be amended as follows (new text is underlined; deleted text is crossed out; section or subsection titles are in brackets; all section references are to the pending incorporation into codification of revisions to Chapter 415 of the Silver Spring Township Code which will be numbered SST Code § 415-25.C with 214.B corresponding to the below-referenced sections of the Silver Spring Township Zoning Ordinance of 2022, as amended):

A. Section 214.B shall be amended to include Solar Farms as a conditional use:

Solar Farms	**C**	**444;804**

SECTION 2. Severability.

If any section, subsection, sentence, clause, phrase, provision, or portion of this Ordinance is found to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision. Such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. Effective Date.

This Ordinance shall become effective as soon as permissible by law after its enactment by the Board of Supervisors of the Township of Silver Spring, County of Cumberland, Commonwealth of Pennsylvania.

DULEY ENACTED AND ORDAINED INTO LAW as Ordinance No. ____ of 2025 this ___ day of _____ 2025.

ATTEST:

_____
, Secretary

SILVER SPRING TOWNSHIP
BOARD OF SUPERVISORS

By:_____
, Chair

PLANNING DEPARTMENT
Cumberland County

Cumberland County Review Report

Cumberland County Planning Department
310 Allen Road, Suite 101
Carlisle, PA 17013
Telephone: (717) 240-5362

Recommendation: *Approval With Comments*

Name of Amendment:				
Solar Ordinance				
Municipality:	*Date Received:*	*Date Reviewed:*	*Reviewed By:*	*Checked By:*
Hopewell Township	7/15/2025	8/6/2025	NB, SH	KS
Type of Amendment:				
Zoning Text Amendment				

Explanation of Amendment:

Hopewell Township has submitted a zoning ordinance text amendment. The amendment will permit accessory and principal solar energy facilities in the township. Accessory solar energy systems are permitted in all districts by right. Principal solar energy facilities are permitted by conditional use in the light industrial (I-1) district.

Consistency:

Cumberland County Comprehensive Plan

The 2024 Cumberland County Comprehensive Plan[1] is organized around the Cumberland Principles. These principles guide effective planning practices which benefit the environment, economic development, and the community. The following table determines consistency between the proposed amendment and the Cumberland Principles.

The Cumberland Principles (Comprehensive plan page number)	**Recommendations for Enhanced Consistency**
Protect the Best First (page 20)	• Principal solar energy systems are only permitted in the I-1 zoning district. This will protect areas zoning for agriculture and woodland conservation.
Plan for People and Places (page 44)	• The proposed text will allow homeowners and businesses to have accessory solar in every zoning district. As an accessory use, solar systems are generally compatible surrounding land uses. • Principal large-scale solar development is limited to the Light Industrial Zone as a conditional use where it will not impact the surrounding area or the character of the township.

[1] https://www.cumberlandcountypa.gov/4888/Comprehensive-Plan

The Cumberland Principles (Comprehensive plan page number)	Recommendations for Enhanced Consistency
Adapt and Stay Safe (page 64)	• Solar is a clean renewable source of energy. Permitting these systems will encourage the use of clean energy and help to reduce greenhouse gas emissions.

Hopewell Township Comprehensive Plan

Goal #3, Objective #12 recommends adoption of solar regulations in the zoning ordinance to stay current with land use regulations and land use trends (page 8-6).

Comments and Recommendations:

1. Page 2, proposed definition of "Principal Solar Energy System (PSES)", The following correction should be made: "Principal Solar Energy Systems consist of one **(1)** or more…".
2. Page 4, section 10.09.C and page 10, section 10.C – Installers. The Pennsylvania Department of Environmental Protection does not maintain a list of approved solar installers. This language should be removed.
3. Page 6, section 10.09.I – Decommissioning. The section should indicate that each ASES and all solar related equipment shall be removed within twelve **(12)** months of the date…

"Section 505 (b) and 609 (g) of the Municipalities Planning Code requires that amendments to municipal ordinances be filed with the county planning agency. If this amendment is approved, please forward a final copy to the county planning office so we may update our records."

TOWNSHIP OF HOPEWELL
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 2025 - 02

AN ORDINANCE OF HOPEWELL TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA AMENDING THE HOPEWELL TOWNSHIP ZONING ORDINANCE, AS AMENDED, TO ADD DEFINITIONS, TO PROVIDE FOR ACCESSORY SOLAR ENERGY SYSTEMS (ASES) IN ALL ZONING DISTRICTS AND PRINCIPAL SOLAR ENERGY SYSTEMS (PSES) AS A CONDITIONAL USE IN THE LIGHT INDUSTRIAL ZONING DISTRICT (I-1), TO ESTABLISH REQUIREMENTS FOR THE INSTALLATION, OPERATION AND DECOMMISSIONING OF SOLAR ENERGY SYSTEMS AS ACCESSORY AND PRINCIPAL USES, AND TO MAKE OTHER TYPOGRAPHICAL AND REFERENCE CORRECTIONS TO THE CHAPTER.

WHEREAS, the Pennsylvania Municipalities Planning Code, act of July 31, 1968, as amended, 53 P.S. §§ 10101 *et seq*., enables a municipality through its zoning ordinance to regulate the use of property and the conservation of energy through access to and use of renewable energy resources; and

WHEREAS, the Township recognizes the importance of providing energy and power to the residents utilizing alternative energy systems, yet the Township seeks to maintain for future generations the agricultural and rural nature of the community as identified in the comprehensive plan;

WHEREAS, the Township seeks to promote the general health, safety and welfare of the community by adopting and implementing this Ordinance providing for access to and use of solar energy systems; and

WHEREAS, The purpose of this ordinance is to add definitions, to provide for accessory solar energy systems (ASES) in all zoning districts and principal solar energy systems (PSES) as a conditional use in the Light Industrial Zoning District (I-1), establish requirements for the installation, operation and decommissioning of solar energy systems as accessory and principal uses, and to update related section cross-references.

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of the Township of Hopewell, County of Cumberland, and Commonwealth of Pennsylvania, as follows:

SECTION 1:

a. This ordinance shall be known as the "Hopewell Township Solar Energy Ordinance of 2025."

b. This ordinance is adopted pursuant to the authority granted to Hopewell Township under the Pennsylvania Second Class Township Code, including but not limited to 53 P.S. §§ 66505 and 66601.

SECTION 2: Section 3.01 [DESIGNATION OF DISTRICTS.] shall be amended to correct the I-1 designation as follows and as indicated by strikethrough:

WC	Woodland Conservation District
A-1	Agricultural District
VR	Village Residential District
C-1	Neighborhood Commercial District
I-1	~~Limited~~ Light Industrial District

SECTION 3: The definitions of the terms "Accessory Solar Energy System (ASES)," "Glare," "Principal Solar Energy System (PSES)," "Solar Array," "Solar Cell," "Solar Easement," "Solar Energy," "Solar Module," "Solar Panel," and "Solar Related Equipment" as set forth below are hereby inserted in Section 2.02 [Definitions] of ARTICLE 2 [DEFINITIONS] of the Hopewell Township Zoning Ordinance (hereinafter "Zoning Ordinance"), originally adopted as Ordinance Number 91-01 and thereafter amended, in appropriate alphabetical order as follows:

ACCESSORY SOLAR ENERGY SYSTEM (ASES) – An area of land or other area used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. An accessory solar energy system consists of one (1) or more free- standing ground, or roof mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption utility power or fuels.

GLARE – The effect produced by light with an intensity sufficient to causer annoyance, discomfort, or loss in visual performance and visibility.

PRINCIPAL SOLAR ENERGY SYSTEM (PSES) – An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one (10 or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

SOLAR ARRAY – A grouping of multiple solar modules with the purpose of harvesting solar energy.

SOLAR CELL – The smallest basic solar electric device which generates electricity when exposed to light.

SOLAR EASEMENT – A right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, or other written instrument executed by or on behalf of any landowner for the purpose of assuring adequate access to direct sunlight for solar energy systems.

SOLAR ENERGY – Radiant energy (direct, diffuse and/or reflective) received from the sun.

SOLAR MODULE -A grouping of solar cells with the purpose of harvesting solar energy.

SOLAR PANEL – That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

SOLAR RELATED EQUIPMENT – Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy.

SECTION 4:

A. Table 3-1 ["WC" & "A-1" ZONING DISTRICTS PERMITTED USES] of Section 3.05 [Use Tables] of ARTICLE 3 [DESIGNATION OF ZONING DISTRICTS, ADOPTION OF ZONING MAP, & PERMITTED USE TABLES] shall be amended to include Accessory Solar Energy System (ASES) as a permitted use in both the WC – Woodland Conservation District and the A-1 Agricultural District in appropriate alphabetical order as follows:

C. ACCESSORY USES	WC Woodland Conservation	A-1 Agricultural
Accessory Solar Energy System (ASES)	P	P

SECTION 5:

A. Table 3-2 ["VR" & "C-1" ZONING DISTRICTS PERMITTED USES] of Section 3.05 [Use Tables] of ARTICLE 3 [DESIGNATION OF ZONING DISTRICTS, ADOPTION OF ZONING MAP, & PERMITTED USE TABLES] shall be amended to include Accessory Solar Energy System (ASES) as a permitted use in both the VR – Village Residential District and the C-1 – Neighborhood Commercial District in appropriate alphabetical order as follows:

C. ACCESSORY USES	VR Village Residential	C-1 Neighborhood Commercial
Accessory Solar Energy System (ASES)	P	P

SECTION 6:

A. Table 3-3 ["I-1" ZONING DISTRICTS PERMITTED USES] of Section 3.05 [Use Tables] of ARTICLE 3 [DESIGNATION OF ZONING DISTRICTS, ADOPTION OF ZONING MAP, & PERMITTED USE TABLES] shall be amended to include Accessory Solar Energy System (ASES) as a permitted use in the I-1 – Light Industrial Zoning District in the appropriate alphabetical order as follows:

B. ACCESSORY USES	I-1 Light Industrial
Accessory Solar Energy System (ASES)	P

SECTION 7: ARTICLE 10 [PERMITTED AND CONDITIONAL USE REGULATIONS] shall be amended to include Accessory Solar Energy System (ASES) as Section 10.09 and the subsequent sections shall be renumbered appropriately. Section 10.09 [Accessory Solar Energy System (ASES).] shall read as follows:

Section 10.09 [Accessory Solar Energy System (ASES).]

A. Permitted as an accessory structure.

ASES shall be permitted as a use by right as an accessory structure in all zoning districts.

B. Compliance with industry standards.

The ASES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code, regulations adopted by the Pennsylvania Department of Labor and Industry, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the permit application.

C. Installers.

ASES installers must demonstrate they are listed as a certified installer on the PA Department of Environmental Protection's (DEP) approved solar installer list or that they meet the criteria to be a DEP approved installer by meeting or exceeding one of the following requirements:

(1) Is certified by the North American Board of Certified Energy Practitioners (NABCEP) for PV installation.

(2) Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited PV training program or a PV manufacturer's training program and successfully installed a minimum of three PV systems.

(3) For residential applications, a registered home improvement contractor with the Attorney General's Office.

D. Maintain in good working order.

Upon completion of installation, the ASES shall be maintained in good working order in accordance with manufacturer's standards of and any other codes under which the ASES was constructed. Failure of the property owner to maintain the ASES in good working order is ground for appropriate actions by Hopewell Township in accordance with all applicable ordinances.

E. Underground requirements.

All on-site utility, transmission lines, and plumbing shall be placed underground to the extent feasible.

F. Signage.

The display of advertising is prohibited except for reasonable identification of the manufacturer of the system.

G. Glare.

(1) All ASES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.

(2) The applicant has the burden of proving that any glare produced does not have a significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

H. Solar Easements.

a. Where a subdivision or land development involves the use of solar energy systems, solar easements may be provided. Said easements shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements.

b. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easement shall include but not be limited to:

i. A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees or the hours of the day, on specified dates, during which direct sunlight to a specified surface or structural design feature may not be obstructed;

ii. Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;

iii. Enumerate terms and conditions, if any, under which the easement may be revised or terminated;

iv. Explain the compensation for the owner of the real property subject to the solar easement for maintaining the easement and for the owner of the real property benefiting from the solar easement in the event of interference with the easement.

c. If required, an ASES owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s).

d. Prior to the issuance of a zoning permit, applicants must acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself: (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.

I. Decommissioning.

(1) Each ASES and all solar related equipment shall be removed within twelve (120 months of the date when the use has been discontinued or abandoned by the system owner and/or operator, or upon termination of the useful life of same.

(2) The ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of twelve (12) continuous months.

(3) The ASES owner shall, at the request of Hopewell Township, provide information concerning the amount of energy generated by the ASES in the last twelve (12) months.

J. Zoning Permit Requirements.

(1) A Zoning Permit Application shall document compliance with this Ordinance and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. The applicant shall be required to secure all applicable building permits required under the PA Uniform Construction Code. All permits shall be kept on the premises where the ASES is constructed.

(2) A new Zoning Permit shall be required if an ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this Ordinance.

(3) The ASES must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Zoning Officer shall give written notice specifying the violation to the owner of the ASES to conform or to remove the ASES.

(4) Prior to the issuance of a Zonign Permit, applicants must acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself:

(a) The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or

(b) The right to prohibit the development on or growth of any trees or vegetation on such property.

(5) Routine maintenance or like kind replacements do not require a permit.

K. Roof mounted and wall mounted Accessory Solar Energy Systems.

(1) Location.

A roof mounted or wall mounted ASES may be located on a principal or accessory building.

(2) Setbacks.

(a) Wall mounted ASES shall comply with the setbacks for principal and accessory structures of the underlying zoning districts.

(b) Solar panels shall not extend beyond any portion of the roof edge.

(3) Height.

ASES mounted on roofs or walls of any building shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

(4) Code Compliance.

For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the PA Uniform Construction Code and that the roof or wall is capable of holding the load

imposed on the structure. Applications for roof mounted ASES shall be accompanied by engineer stamped plans that demonstrate the structural sufficiency of the roof to hold the weight of the ASES.

L. Ground Mounted Accessory Solar Energy Systems.

(1) Setbacks.

(a) The minimum yard setbacks from side and rear property lines hall comply with the required setbacks for a principal structure setback of the underlying zoning district.

(b) Ground mounted ASES are prohibited in front yards, between the principal building and the public street, excluding front yard locations which are located not less than 200 feet from the front property line.

(2) Height.

Freestanding ground mounted ASES shall not exceed 20 feet in height above the ground elevation surrounding the systems.

(3) Coverage.

(a) The surface area of the arrays of a ground mounted ASES, regardless of the mounted angle of any solar panels, shall be considered impervious and calculated in the lot coverage of the lot on which the system is located. ASES shall not exceed the maximum lot coverage requirements of the underlying zoning district.

(b) If applicable, the applicant shall submit a Stormwater Management plan that demonstrates compliance with the Hopewell Township stormwater management regulations.

(4) Screening.

Ground mounted ASES when located less than 50 feet from a property line shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of plant materials which provide a visual screen using two staggered rows of evergreen trees planted in along the nearest side or rear yard boundary of ASES with the spacing distance between trees not less than eight feet or greater than ten (10) feet. Said trees shall be not less than six (6) feet in height at the time of planting. In lieu of a planting screen, a decorative fence meeting requirements of the zoning ordinance may be used if along such boundary.

(5) Safety/warning signage.

Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the ASES shall be locked to prevent unauthorized access or entry.

(6) Location Restrictions.

Ground-mounted ASES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

SECTION 8: Table 3-3 ["I-1" ZONING DISTRICTS PERMITTED USES] of Section 3.05 [Use Tables] of ARTICLE 3 [DESIGNATION OF ZONING DISTRICTS, ADOPTION OF ZONING MAP, & PERMITTED USE TABLES] shall be amended to include Principal Solar Energy System (PSES) as a conditional use in the I-1 – Light Industrial Zoning District in the appropriate alphabetical order as follows:

A. NON-RESIDENTIAL USES	I-1 Light Industrial
Principal Solar Energy System (PSES)	C

SECTION 9: ARTICLE 10 [PERMITTED AND CONDITIONAL USE REGULATIONS] shall be amended to include Principal Solar Energy System (PSES) in the proper numerical and alphabetical order and shall read as follows:

[Principal Solar Energy System (PSES).]

A. Permitted as a conditional use.

A PSES shall be permitted as a Conditional Use in the I-1 Light Industrial Zoning District.

B. Compliance with industry standards.

The PSES layout, design, installation, and ongoing maintenance shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code, regulations adopted by the Pennsylvania Department of Labor and Industry, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the permit application.

C. Installers.

PSES installers must demonstrate they are listed as a certified installer on the PA Department of Environmental Protection's (DEP) approved solar installer list or that they meet the criteria to be a DEP approved installer by meeting or exceeding one of the following requirements:

(1) Is certified by the North American Board of Certified Energy Practitioners (NABCEP) for solar thermal installation.

(2) Has completed an Interstate Renewable Energy Council (IREC) Institute of Sustainable Power Quality (ISPQ) accredited solar thermal training program or a solar collector's manufacturer's training program and successfully installed a minimum of three solar thermal systems.

D. Maintain in good working order.

Upon completion of installation, the PSES shall be maintained in good working order in accordance with manufacturer's standards of and any other codes under which the PSES was constructed. Failure of the owner to maintain the PSES in good working order is grounds for appropriate enforcement actions by Hopewell Township in accordance with applicable ordinances.

E. Underground requirements.

All on-site transmission and plumbing lines shall be placed underground to the extent feasible.

F. Utility notification.

The owner of a PSES shall provide Hopewell Township with written confirmation that the public utility company to which the PSES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection.

G. Signage.

No portion of the PSES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the PSES provided they comply with the prevailing sign regulations.

H. Glare.

(1) All PSES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.

(2) The applicant has the burden of proving that any glare produced does not have a significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

I. Noise study.

A noise study shall be performed and included in the zoning/building permit application. The noise study shall be performed by an independent noise study expert and paid for by the applicant. Noise from a PSES shall not exceed 50 dBA, as measured at the property line.

J. Tree and landscaping removal.

No trees or other landscaping otherwise required by the Township ordinances or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of a PSES.

K. Contact Information.

The PSES owner and/or operator shall provide current contact information to the Township which includes at minimum a phone number and identifies a responsible person for the Township or public to contact regarding emergencies, inquiries and complaints throughout the life of the project. The PSES owner and/or operator shall furnish to the Board of Supervisors a written plan outlining procedures on how complaints will be addressed. For the life of the project, the current contact information shall be conspicuously posted upon locations through the property.

L. Solar Easements.

Where a subdivision or land development proposes a PSES, solar easements may be provided. If a solar easement, intended to guarantee unobstructed solar access, is desired by the applicant and/or property owner for an ASES, such matter shall be carried out as a civil agreement between or among all applicable parties. Hopewell Township shall not be a party to any agreement designed to provide a solar easement, nor shall Hopewell Township be responsible for ensuring the maintenance of any solar easement. Said easements shall be in writing, and shall be subject to the same conveyance and instrument recording requirements as other easements. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance.

M. Decommissioning.

(1) The PSES owner is required to notify Hopewell Township immediately upon cessation or abandonment of the operation. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) continuous months.

(2) The PSES owner shall then have twelve (12) months in which to dismantle and remove the PSES including all solar related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, roads, foundations and other associated facilities from the property. The owner shall also restore the land to its original condition, including forestry paintings of the same type/variety and density as the original.

If the owner fails to dismantle and/or remove the PSES and restore the land within the established time frames, Hopewell Township may complete the decommissioning and land restoration at the owner's expense.

(3) At the time of issuance of the permit for the construction of the PSES, the owner shall provide financial security in the form and amount acceptable to Hopewell Township to secure the expense of dismantling and removing said PSES and restoration of the land to its original condition, including forestry plantings of the same type/variety and density as the original.

N. Permit Requirements.

(1) A Zoning Permit Application shall document compliance with this Ordinance and shall be accompanied by drawings showing the location of the PSES on the property, including property lines. Permits shall be kept on the premises where the PSES is constructed.

(2) PSES shall comply with Hopewell Township zoning and subdivision and land development requirements. The installation of PSES shall be in compliance with all applicable permit requirements, codes, and regulations.

(3) The PSES owner and/or operator shall repair, maintain and replace the PSES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the PSES in good repair and operating condition.

(4) Prior to the issuance of a zoning permit, PSES applicants must acknowledge in writing that the issuing of said permit shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself: (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.

(5) Routine maintenance or like-kind replacements do not require a permit.

O. Ground Mounted Principal Solar Systems.

(1) Lot Size.

A PSES shall require a lot size of not less than ten (10) acres.

(2) Setbacks.

A PSES shall be setback of not less than 100 feet to any property line.

(3) Height.

Ground mounted PSES shall not exceed 20 feet in height.

(4) Lot coverage.

The surface area of the arrays of a ground mounted PSES, regardless of the mounted angle of any solar panels, shall be considered impervious and calculated in the lot coverage of the lot on which the system is located. The PSES shall not exceed the maximum lot coverage requirements of the underlying zoning district.

(5) The applicant shall submit a Stormwater Management Plan that demonstrates compliance with the Hopewell Township stormwater management regulations.

(6) PSES owners are encouraged to use low maintenance and low growing vegetative surfaces under the system as a best management practice for stormwater management.

SECTION 10: SEVERABILITY – The provisions of this Ordinance are severable. If any sentence, clause, or section of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, or sections of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of Hopewell Township that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause or section not been included herein.

SECTION 11: REPEALS – All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 12: EFFECTIVE DATE – This Ordinance shall become effective five days after its enactment by the Board of Supervisors of the Township of Hopewell, County of Cumberland, Commonwealth of Pennsylvania.

DULY ENACTED AND ORDAINED INTO LAW as Ordinance No. 02 of 2025 this 7 day of July 2025.

ATTEST:

HOPEWELL TOWNSHIP
BOARD OF SUPERVISORS

Jamie Kensinger, Secretary
(SEAL)

Tyler Gamble, Chairman

PLANNING DEPARTMENT
Cumberland County

Cumberland County Planning Department
Vision, Mission, Goals, Objectives, and Action Update
August 2025

Vision

Securing Cumberland County's future through collaboration, innovation, and planning excellence.

Mission

The Cumberland County Planning Department partners with our urban, suburban, and rural communities to create and implement plans that promote economic development, provide more housing and transportation choices, and protect clean air, land, and water.

Goals

1. ***Plan*** for the future of Cumberland County by developing, maintaining, and updating required countywide planning documents.
2. ***Achieve*** success through active implementation of countywide planning documents.
3. ***Engage*** with residents and partner organizations with a shared interest in executing the CCPD's mission.

Objectives

Each of the 3 departmental goals includes a series of objectives that work to achieve the goal. Staff performance measures are then based on those objectives to track implementation progress

Plan		
Objective (Project)	**Action Update**	**Lead Staff/Support**
Comprehensive Plan	• Plan adopted 12/19/2024.	KS/All
Land Partnerships Plan	• Plan released for public review. Adopted expected Sept 11	SW/KS
Hazard Mitigation Plan	• Plan updated in 2021. Update underway • Next update due: 2026-Submission to PEMA scheduled for August 22.	SH/KS
Clean Water Plan	• Meeting held with SRBC to discuss clean water model ordinance. • Ordinance to be completed in summer 2025.	EG/KS
Climate Action Plan	• Plan adopted January 2022	KS/EG
Bridge CIP	• Small Bridge Program grant contracts in process • Upper Frankford Township joined the SBP	KS/SH

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Cumberland County

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August 2025

Achieve

<table>
<tr><th>Objective (Project)</th><th>Action Update</th><th>Lead Staff/Support</th></tr>
<tr><td>Technical Assistance Projects</td><td></td><td></td></tr>
<tr><td>Audubon PA</td><td>Updating 2015 Return on Environment Report. Kick off meeting held June 26.</td><td>SW</td></tr>
<tr><td>Lemoyne Borough</td><td>Assisting with West Shore Gateway Trail Feasibility Study. Discussed new comp plan Cumberland Plans Grant application.</td><td>SW</td></tr>
<tr><td>Lower Allen Township</td><td>Staff support for a new zoning ordinance</td><td>SH</td></tr>
<tr><td>Mechanicsburg Borough</td><td>Grant supplement approved. Comp plan project restarting.</td><td>KS</td></tr>
<tr><td>Middlesex Township</td><td>• Zoning Ordinance updates will be provided for second CCPC review August 2025.
• Requested staff assistance for comp plan update.</td><td>EG, SH, KS</td></tr>
<tr><td>Newville Borough</td><td>Comprehensive plan update is pending in 2025</td><td>KS</td></tr>
<tr><td>Shippensburg Borough</td><td>Discussing staff support for new comprehensive plan.</td><td>SH</td></tr>
<tr><td>Shiremanstown Borough</td><td>Borough discussing potential zoning ordinance updates.</td><td>KS</td></tr>
<tr><td>South Mountain Partnership</td><td>2005 Natural Area Inventory Report Update. Field work underway.</td><td>SW</td></tr>
<tr><td>South Newton Township</td><td>New Comprehensive Plan under development.</td><td>SH</td></tr>
<tr><td>Upper Allen Township</td><td>CCPD staff to complete more detailed municipal plan reviews and attend PC meetings</td><td>SH</td></tr>
<tr><td>West Pennsboro Township</td><td>New Zoning Ordinance official CCPC review at August meeting.</td><td>SH</td></tr>
<tr><td>Financial Assistance</td><td></td><td></td></tr>
<tr><td>Cumberland Plans Grant Program</td><td>• 2024 application from CCHRA for $10K and Lower Allen Township for $17,500 to support housing plan update and zoning ordinance update approved. $23,500 remaining at year end.
• Mechanicsburg $14,000 supplement approved
• Submission for park master plan from North Newton Township forthcoming.</td><td>KS/CCPC</td></tr>
<tr><td>Land Partnerships Grant Program</td><td>• 137 Land Partnerships grants, totaling $3,221,433 has been awarded between 2006-2022
• Grant program to be relaunched fall 2025 with ~$650K available</td><td>SW</td></tr>
<tr><td>Planning Reviews</td><td>
<table>
<tr><th>Review Type</th><th>2025 Month</th><th>2025 YTD</th><th>2024 YTD</th></tr>
<tr><td>S/LD Plan</td><td>11</td><td>92</td><td>89</td></tr>
<tr><td>Ordinance Amendment</td><td>3</td><td>30</td><td>29</td></tr>
<tr><td>Sewage Module</td><td>0</td><td>5</td><td>6</td></tr>
<tr><td>ASA</td><td>2</td><td>7</td><td>7</td></tr>
<tr><td>Total</td><td>16</td><td>134</td><td>131</td></tr>
</table>
</td><td>SH/All</td></tr>
</table>

PLANNING DEPARTMENT
Cumberland County

Cumberland County Planning Department
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August 2025

Achieve		
Objective (Project)	**Action Update**	**Lead Staff/Support**
Clean Water Cumberland Plan	• NFWF Innovative Nutrient and Sediment Reduction funded creation of 57 Conservation Plans (Ag E&S, MMP, NMP). Two farmer workshops held. Two projects proposed for construction, water quality monitoring to occur on one site. NFWF Grant closeout in May 2025. • DEP CAP Implementation grant award notice received for projects totaling $859,862 including agricultural stormwater, exclusion fencing, cover cropping and urban stormwater projects. • CAP team issued subaward notifications for $901,372 in 2025 through Clean Water Grant Program. • Critical aquifer recharge areas (CARAs) map developed to help guide upcoming water quality protection efforts.	EG
HATS/Transportation Planning	• Exit 37 Implementation Plan final draft under review. • I-81 improvement strategy public meeting for Carlisle projects to be held in fall. • SRTA new facility groundbreaking in fall 2025	KS/SH
Farmland Preservation	• 24,888 acres (229 farms) preserved to date • 1,830 acres (14 farms) in process for preservation (2023-2025 selections)	SW/KS/EG/ NB

Engage		
Objective (Project)	**Action Update**	**Lead Staff/Support**
Social Media	**Facebook Followers as of 8/4/2025**: 3,100 **Notable Facebook and NextDoor Posts:** South Mountain Partnership Michaux State Forest Survey – reached 149 FB Tire Recycling Event – reached 294 FB HHW Reminder – reached 476 FB PPL Open House – reached 1,142 Nextdoor Warehouse Development Public Forum – reached 459 FB MS4 Training – reached 204 FB/2,239 NextDoor Tire Collection May Event – reached 269 FB/2,878 NextDoor Exit 37 Study Survey – reached 2,341 on FB/2,419 NextDoor Cumberland County Food System Alliance Event – reached 294 FB/2,073 NextDoor Commercial Property Assessed Clean Energy (C-PACE)Program event – reached 124 FB Cub Scout Pack 296 visits ECenter – reached 263	JC/EG

PLANNING DEPARTMENT
Cumberland County

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Engage		
Objective (Project)	**Action Update**	**Lead Staff/Support**
	2025 HHW Dates – reached 556 FB/1,778 NextDoor Cumberland County turns 275 – reached 189 FB	
Outreach Meetings	• March 11 held with focus on aquifer protection. 35 participants. • June 3 meeting held. Return on Environment and the HATS Transportation Study was reviewed. 49 attendees. • Next Outreach meeting is scheduled for September 4, 2025.	KS/SH
Training Sessions	• Commercial Property Assessed Clean Energy (CPACE) kickoff session held February 27, 2025 (20 participants) • Greater Harrisburg Association of Realtors training session on zoning held on 2/12/25. (40 participants) • PEMA training for floodplain Compliance Audit Assessment 2/10/2025 (30 participants) • Community Garden event held 4/25/2025 with CCFSA (33 participants) • Farmland Preservation community meetings scheduled for August 19 at 10am & 6pm at Allen Road • Future training events for 2025 in development. (Topics finalized and training in Summer 2025) • PEMA "Essentials of Floodplain Management" training scheduled (8/5, 8/19 and 8/26)	EG SW SW/EG/NB SH
Online Submission	Application portal is active. Online payment to begin beta testing.	SH/KS
Partner Organization Participation	• CAEDC/CCHRA • Capital RC&D • Central PA Transportation Authority / Susquehanna Regional Transportation Authority • Central Pennsylvania Conservancy	KS NB KS

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Engage		
Objective (Project)	**Action Update**	**Lead Staff/Support**
	• Conservation District	SW
	• Cumberland Conservation Collaborative	SH
	• Cumberland County Food System Alliance	SW
	• Cumberland Valley Rails to Trails Council, Inc.	SW
	• HATS	SW
	• Kittatinny Ridge Coalition	KS
	• PA Climate Network	SW
	• PA State Planning Board	EG
	• South Mountain Partnership	KS
	• Local Government Advisory Committee	SW/EG
		EG