

ORDINANCE NO. 760

**MIDDLETOWN TOWNSHIP, DELAWARE COUNTY,
PENNSYLVANIA**

AN ORDINANCE AMENDING THE MIDDLETOWN TOWNSHIP CODE OF ORDINANCES OF THE TOWNSHIP OF MIDDLETOWN, DELAWARE COUNTY, PENNSYLVANIA, CHAPTER 275, ZONING, ARTICLE II, ENTITLED TERMINOLOGY, SECTION 275-8 BY ADDING A DEFINITION FOR PAD LOT AND BY ADDING ARTICLE XXIII.A ENTITLED MALL CONVERSION OVERLAY (MCO) DISTRICT WHICH SHALL GOVERN THE DEMALLING OR OTHER CONVERSION OF A MALL DEVELOPED IN ACCORDANCE WITH ARTICLE XXIII, CHAPTERS 275-135 THROUGH 275-140.

The Council of the Township of Middletown, Delaware County, Pennsylvania, hereby ENACTS AND ORDAINS the following amendments to the Code of Ordinances of the Township of Middletown, Delaware County, Pennsylvania:

Section 1.

The Middletown Township Code of Ordinances, Chapter 275, Zoning Article II, Section 275-8, Definitions, is hereby amended by adding the following term which shall have the meaning set forth below:

PAD LOT

A fee simple parcel created for financing and/or conveyancing purposes within a tract qualifying for a Mall Conversion.

Section 2.

The Middletown Township Code of Ordinances, Chapter 275, Zoning is hereby amended by adding Sections 275-140.1 through 275-140.12 as follows:

§275-140.1. Purpose.

A.

The provisions of this article are enacted for the following purposes:

(1)

To allow for the revitalization of existing planned regional shopping centers located in the B-2 Major Shopping Center District by permitting the elimination of clustered business uses within a mall and replacement by retail stores, restaurants, offices and the like with direct access from unenclosed space and by the addition of an apartment style residential use.

(2)

To revitalize properties that have vacant, defunct or underutilized buildings, and to transform such previously developed properties into a more functional and attractive mixed commercial and residential community.

(3)

To address planning, development and redevelopment issues affecting certain areas along Baltimore Pike within Middletown Township.

§275-140.2. Applicability of Article XXIII

An application for a mall conversion shall be governed by the provisions of the Mall Conversion Overlay District regulations and shall supercede and replace the provisions of Article XXIII, Chapters 275-135 through 275-140 for all purposes.

§275-140.3. Use regulations.

Buildings may be erected, altered or used and land may be used or occupied for any combination of the following uses:

A.

The following nonresidential uses are permitted as of right within the Mall Conversion Overlay District:

(1)

Retail stores, including without limitation department stores, hardware stores, lawn and garden stores;

(2)

Personal service or custom shops;

(3)

Bank or other financial institutions, with or without drive-up window and/or accessory ATM facilities;

(4)

Post office;

(5)

Pharmacy, with or without drive-up window;

(6)

Restaurants and taverns, with or without outdoor service of food and/or alcohol, with and/or without electronic entertainment centers, mechanical games and other recreational uses, drive through service(s), musical entertainment and dancing [but excluding adult entertainment or

dancing as defined in Section 275-117.2], provided that all musical entertainment and dancing activities shall be indoors except for such special outdoor events as are approved by Township Council;

(7)

Restaurants, Fast Food; with or without drive through service(s);

(8)

Movie theatres;

(9)

General or professional offices;

(10)

Supermarket;

(11)

Health and fitness centers, including ancillary services such as wellness, physical rehabilitation facilities and prevention health education activities;

(12)

Motor vehicle service center (excluding motor vehicle sales and junk or wrecking yard);

(13)

Convenience store with retail gasoline sales;

(14)

Medical office (with inpatient and outpatient surgery facilities)

(15)

Hotel.

(16)

Municipal use

(17)

Recreational uses, with or without service of food and/or alcohol, including bowling alleys and electronic entertainment facilities.

(18)

Uses substantially similar to the uses described in Sections 275-140.3.A(1) through 275-140.3.A(17) above as approved by Township Council.

B.

The following residential uses are permitted as of right within the Mall Conversion Overlay District:

(1)

Multifamily Dwellings together with multi-tiered, structured parking.

C.

Permitted accessory uses within the Mall Conversion Overlay District:

(1)

Uses customarily incidental to the uses permitted in Sections 275-140.3(A) and 275-140.3(B).

(2)

Signage

(3)

Parking –whether structured parking or surface parking

(4)

Storage structures for or in connection with the storage of equipment and/or materials used for the maintenance of the multifamily residential buildings and/or mall buildings in general.

§275-140.4. Height regulations.

The maximum height of buildings within the Mall Conversion Overlay District shall be as follows, except as provided in the special provisions in Article XXXIV of the Zoning Ordinance which provides for exceptions to height regulations for certain structures:

A.

All buildings: 70 feet.

§275-140.5. Area and bulk regulations.

A.

Minimum tract size: 75 acres.

B.

Maximum impervious surface coverage: 85%.

C.

Maximum building coverage: 25%.

D.

For purposes of calculating impervious surface coverage and building coverage in the Mall Conversion Overlay District, the term "lot area" shall include driveway, drainage and permanent utility easement areas.

E.

Setbacks:

(1)

Front yard (adjacent to Baltimore Pike): 50 feet for both multi-family residential and non-residential uses, except that the front yard setback requirement shall not apply to existing and proposed, new parking areas.

(2)

Front yard (adjacent to Middletown Road, Oriole Avenue, or other Township road): 70 feet for non-residential uses and 40 feet for multi-family residential uses, except that the front yard setback requirement shall not apply to existing and proposed, new parking areas.

(3)

Side yard: 30 feet.

(4)

Rear yard: 30 feet.

F.

Parking area setback for new parking space areas:

(1)

From right-of-way: 15 feet.

(2)

From adjacent residential use: 25 feet.

G.

Multifamily dwelling.

(1)

Maximum gross density: 400 multifamily dwelling units.

(2)

Maximum building length: uninterrupted plane of not more than 225 feet for each new building.

(3)

Multifamily residential buildings shall be located and situated to promote pedestrian access to commercial and other nearby uses.

H.

Existing non-conformities. Subject to Township Council's approval, area and bulk, parking, landscaping and buffering non-conformities existing immediately prior to the implementation of a mall conversion, whether disturbed or undisturbed during the construction and implementation

of a mall conversion, may remain and/or be re-constructed, such as, but not by way of limitation, parking space dimensions and parking within required setbacks.

§275-140.6. Development Standards.

A.
General standards.

(1)
The requirement of Sections 275-217 through 275-223, inclusive, 275-198(C), 275-199(A), 275-199(C) and 275-199(E) shall not apply to the Mall Conversion Overlay District.

(2)
Refuse stations shall be designed with suitable screening and shall be located so as to be convenient for trash removal and so as to not be offensive to residents and patrons.

B.
Buffer areas and landscaping.

(1)
The requirements of Sections 275-213, 275-214(B), 275-214(C) and 275-214(D) shall not apply to the Mall Conversion Overlay District, however, any land development application filed pursuant to the Mall Conversion Overlay District regulations shall include a landscape plan demonstrating compliance with the landscape requirements set forth herein.

(2)
Along each property line which directly abuts any residential district or residential use excluding road frontage, a buffer area of not less than 25 feet shall be provided, of which at least 10 feet shall be landscaped. Landscaping within a residential buffer area in a Mall Conversion Overlay District shall consist of evergreen trees of six (6') feet to eight (8') feet in height at the time of planting shall be planted at twelve (12') foot centers. Subject to Township Council's approval, an applicant may be given credit for existing evergreen or deciduous trees in a residential buffer area.

(3)
Landscaping along Baltimore Pike, Middletown Road and Oriole Avenue rights-of-way shall consist of 6 shrubs for every 100 lineal feet of road frontage, and one street tree no less than three and one-half (3½") inches in caliper for every one hundred (100') lineal feet of road frontage. Subject to Township Council's approval street trees and shrubs may be grouped to achieve a stated design objective.

(4)
All new buildings constructed in connection with a mall conversion shall be landscaped in accordance with the following criteria:

(a). A combination of trees and shrubs shall be used as "foundation" plantings, i.e. plantings to be installed in reasonably close proximity to the facades.

(b). One deciduous tree of three and one-half (3½") inches to four (4") inches in caliper (or equivalent vegetation acceptable to Township Council) shall be planted for every fifty (50') foot length of building façade measured from end to end of buildings, without regard to indentations and the like in the buildings or facades, and excluding any enclosed walkway connectors and elevator cores; however, in order to achieve a particular design objective a six (6') foot to eight (8') foot evergreen tree may be planted in lieu of deciduous, when approved by Township Council.

(c) Five (5) evergreen and/or deciduous shrubs shall be planted for every forty (40') feet of length of building facade.

(5)

Other landscaping including trees, shrubs or ground covers shall be provided along walkways, in courtyards, around sitting areas, at the entrance to the site and in other highly visible locations, especially on the outer side of any internal access roads which are visible from a public street which may adjoin a tract, at the entrance to buildings and around structures used for service, storage or maintenance purposes.

(6)

The intent of the landscaping requirements is to afford the designer latitude in spacing and location of planting in order to achieve site layout and landscaping objectives. Where site features, such as but not limited to, sidewalks, patio and drive-thru aisle do not provide sufficient space for plantings, alternate planting locations in the general vicinity may be deemed acceptable to the Township Council.

(7)

The location, type, size, height and other characteristics of landscaping shall be subject to the review and approval of the Township Council.

(8)

Parking lots shall be landscaped in accordance with Section 275-140.7(D)(1).

C.

Lighting.

(1)

All parking areas shall be adequately lighted with lighting of such quality and type and with such shielding as will not present direct glare to any adjoining residential area. All parking lot street lights shall not exceed 50 feet in height (excluding building mounted lighting) with full cut-off lighting which shall not exceed 0.5 foot candles at the property line. Unless otherwise permitted by the Township Council, all parking lot lighting shall be extinguished one hour after the close of business, until dawn, in order to conserve energy and reduce glare and sky-lighting consequences. Where all-night safety or security lighting is deemed necessary, the lighting

intensity levels shall meet the minimum levels for safety and security as prescribed by the Illumination Engineering Society ("IES").

(2)

All driveways, aisles, maneuvering spaces, vehicular service areas or spaces between or about buildings, other than those relating to a dwelling, shall be adequately illuminated.

(3)

All outside lighting, including sign lighting, shall be directed in such a way as not to create a nuisance, and in every district all such lighting shall be arranged so as to protect the street or highway and adjoining property from direct glare or hazardous interference of any kind.

§275-140.7. Off-Street Parking and Loading.

A.

The requirements of Sections 275-183(F), 275-184(B), 275-186(G) and 275-188 shall not apply to the Mall Conversion Overlay District.

B.

Off-street parking shall comply with the minimum off-street parking requirements set forth below:

(1)

The multifamily residential use shall require one and one-half (1.50) parking spaces per multifamily dwelling unit. The parking spaces required to serve each multifamily building shall be contained within a structured parking facility connected or attached to each multifamily building.

(2)

All other uses (excluding multi-family residential use) shall require four (4.0) parking spaces for each one thousand (1,000') square feet of gross floor area measured from the outside perimeter wall of each such building;

C.

Parking Area Design Standards. All newly constructed parking areas, in the Mall Conversion Overlay District, shall comply with the following:

(1)

Parking spaces for commercial uses located on the tract shall be nine and one-half (9½') feet wide by nineteen (19') feet long, except that 30% of the total number of new parking spaces may be nine (9') feet wide by eighteen (18') feet long, provided that they are located in a contiguous parking area.

(2)

Parking spaces for multifamily residential uses on the tract shall be nine (9') feet wide by eighteen (18') feet long and parking areas for multifamily residential uses shall provide internal drive aisles having a minimum width of twenty-four (24') feet.

D.

Parking Area Landscaping Design Standards. Landscaping shall conform to the following provisions:

(1)

Landscaping within any new parking area (excluding structured parking garages) which provides more than five (5) parking spaces shall be subject to the following provisions:

(a) Off-street parking areas and parking lots shall be landscaped to reduce wind and air turbulence, heat and noise and the glare of automobile lights; to reduce the level of carbon dioxide; to provide shade; to ameliorate stormwater drainage problems; to replenish the groundwater table; and to provide for a more attractive setting.

(b) Each parking lot shall have one shade tree of three (3") inches to three and one-half (3½") inches in caliper for every fifteen (15) parking spaces. Shrubs, ground covers and other plant materials are encouraged to be used to complement the trees but shall not be the sole contribution to the landscaping.

(c) The landscaping and planting areas shall be reasonably dispersed throughout the parking lot; except where there are twenty (20) or more parking spaces, in which case, the following shall apply:

i. Landscaped "islands" shall be provided at the end of each parking bay which contains twenty (20) or more parking spaces. Such "islands" shall be a minimum of eight (8) feet in width and eighteen (18") feet in length. Such "islands" shall be provided to enhance the appearance of the parking area and to control access and movement within the parking area.

ii. Where approved by Township Council, the end of a parking bay may be paved so long as the area provides for gore striping such that adequate maneuverability of vehicles is possible without impacting parked vehicles.

(d) All planting islands and planting beds within a parking lot shall be surfaced with ground covers and/or dwarf shrubs and shall not be grassed. Stone or hardwood mulch may be used in conjunction with shrubs and ground covers.

(e) The type, location, arrangement and dispersal of planting areas and plant materials shall be subject to the review and approval of the Township Council.

§ 275-140.8. Signage.

A.

Subject to Section 275-140.8(B) below, all signs constructed or erected within a Mall Conversion Overlay District shall be subject to the general requirements contained in §§ 275-190 through 275-195 of the Zoning Ordinance applicable to B-2 Major Shopping Center Districts and the specific standards set forth therein, except that: (i) notwithstanding Section 275-192.A(2), LED type, electronically controlled signage which periodically changes its message and colors shall be permitted; (ii) notwithstanding Sections 275-191.A(1) 275-192.A(3), 27-192.A(5), 275-192.A(7), 275-192.A(11), 275-192.F(1), 275-192.F(3) and 275-192.F(4), the signage referenced in the "Concept Signage Program" set forth in the Design Guidelines approved by Council shall be permitted; (iii) notwithstanding Section 275-192.A(8), the requirement that all signage shall be back lit shall not apply; (iv) notwithstanding Sections 275-192.B(6) and 275-192.B(7), all tenant advertising signage shall be turned off within one-half (1/2) hour after the close of business but signage identifying the center may remain continuously illuminated; and (v) notwithstanding Section 275-195(G)(1), the maximum size of an electrical changeable copy display or manual changeable copy display in the Mall Conversion Overlay District shall be 75 square feet.

B.

Signage in a Mall Conversion Overlay District pertaining to a multi-family residential building shall be subject to the following: (i) no more than two (2) building identification signs may be affixed to the façade of each multi-family residential building and each such sign shall not exceed a total area of seventy-five (75') square feet, and (ii) one (1) ground mounted, monument sign shall be permitted which shall not exceed a height of ten (10') feet above the grade at the base of such monument sign and each face of such monument sign shall not exceed a total area of fifty (50') square feet.

§275-140.9. Design Guidelines.

A.

Development in a Mall Conversion Overlay District shall comply with Design Guidelines which shall be subject to Township Council's approval in conjunction with the approval of any land development application filed pursuant to the Mall Conversion Overlay District regulations.

§275-140.10. Environmental controls.

A.

All uses within the Mall Conversion Overlay District shall comply with all environmental controls of §275-207, Subsections A through K, pertaining to noise, smoke, dust, fumes, vapors and gases, heat and glare, air quality, odor, vibration, soil erosion, sedimentation and grading control, and storage and waste disposal.

B.

The requirement for an environmental impact assessment (EIA) report meeting the standards contained in §275-215 of the Zoning Ordinance and §275-207, Subsections L and M pertaining to slope and traffic controls shall not apply to a mall conversion in the Mall Conversion Overlay District.

§275-140.11. Stormwater Management. Stormwater management in a mall conversion shall be subject to the requirements of the Stormwater Management Ordinance.

§275-140.12. Pad Lots.

Individual fee simple pad lots and may be created for purposes of financing and/or conveyancing in connection with development of a tract within the Mall Conversion Overlay District. Such individual pad lots shall not be required to comply on an individual basis with the dimensional requirements of this Article, provided that the tract complies with such requirements on an overall basis, and provided further that a declaration of covenants, easements and restrictions is recorded that contains provisions that require each owner of a pad lot to, at all times, operate and maintain such owner's pad lot in good order and repair and in a clean and sanitary condition; that establishes cross easements for the benefit of each pad lot for parking areas and all appurtenant ways, vehicular and pedestrian access and utilities; and which is subject to the approval of the Township Solicitor. The owner of any such pad lot shall covenant and agree to be bound by all of the conditions as set in the declaration of covenants, easements and restrictions embodying the terms and conditions of this section. Where pad lots are proposed, a subdivision plan shall be submitted at the time of final plan submission and shall be approved by Township Council prior to recording.

Section 3.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held invalid or unconstitutional by any courts of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not render this Ordinance invalid.

Section 4.

All Ordinances or parts of Ordinances inconsistent herewith are hereby superseded to the extent of any inconsistency with any provision contained herein

Section 5.

This Ordinance shall be effective thirty-one (31) days after its enactment.

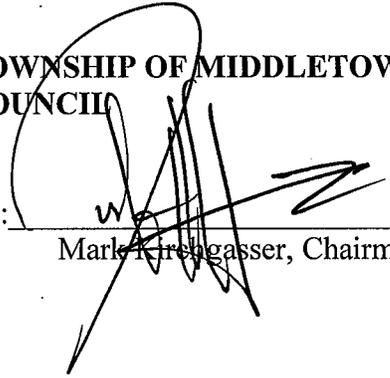
ENACTED AND ORDAINED by the Council of Middletown Township, Delaware County, Pennsylvania, this 9th day of NOVEMBER, 2015.

ATTEST:



W. Bruce Clark,
Township Manager

TOWNSHIP OF MIDDLETOWN
COUNCIL



By: Mark Kirchgasser, Chairman