

ORDINANCE NO. 90, 1992

AN ORDINANCE OF THE TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA, AMENDING THE TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE TO PROVIDE FOR RESIDENTIAL CLUSTER DEVELOPMENT WHICH WILL PERMIT DEVELOPMENT OF SINGLE FAMILY DWELLINGS IN A FLEXIBLE MANNER SO AS TO PROVIDE FOR MAXIMUM PRESERVATION OF TREE COVER, WETLANDS, STREAMS, AGRICULTURAL LAND, OPEN SPACE AND OTHER NATURAL FEATURES.

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WHEREAS, it appears that residential cluster development may permit development of single family dwellings to allow for flexibility in site layout and planning by "clustering", so as to provide for the sound physical handling of the properties in situations where the site amenities, such as tree cover, wetlands, streams and agricultural land, and other natural features, may be preserved or have a land use relationship to make a compact cluster land plan more desirable;

WHEREAS, in order to ensure that such Residential Cluster Development is applied in an orderly and thoughtful manner requiring several stages of review with certain restrictions and conditions; and

WHEREAS, the Board of Supervisors of Tilden Township desires to allow such Residential Cluster Development in order to permit the flexible site layout and planning to enhance those amenities as set forth above;

NOW, THEREFORE:

Section 1. It is hereby enacted and ordained that an Article VIII.A. is hereby added to the Subdivision and Land Development Ordinance of Tilden Township of 1991, as amended, as follows:

Article VIII. A. Residential Cluster Development

8.A.00 General Requirements

- 8.A.01 A Cluster Development is a residential land development which allows for use of smaller lot sizes in conjunction with the preservation of open space and in which the smaller lots are grouped together in a specified area of the development. The development shall include single-family detached dwellings only.
- 8.A.02 The minimum land required for Residential Cluster Development shall be 50 acres and it shall be held in single ownership or control by an approved community association at the time of the application.

8.A.03 Each lot shall have adequate access on a public or private roadway.

8.A.04 Each lot shall be of a size and shape to provide a building site which shall be in harmony with the natural terrain and other features of the land.

8.A.05 There shall be an adequate, safe, and convenient arrangement of pedestrian circulation, roadways, driveways, and parking. Sidewalks and curbs may be required.

8.A.10 Utility Requirements

8.A.11 All structures which require plumbing shall be connected to a public sanitary sewer, if available, or a community sewage disposal system.

8.A.12 A community sewage disposal system shall be designed, approved, and constructed in accordance with Pennsylvania Department of Environmental Resources requirements and specifications.

8.A.20 Common and Open Space Requirements

8.A.21 All land not devoted to dwellings, or accessories uses, roads or other allowable community/development uses shall be set aside as common land for recreation, conservation, or agricultural uses which preserve the land in a manner that is in keeping with the character of the community.

8.A.22 The total minimum area of common space for a Residential Cluster Development shall be equal to 50% of the tract area. For purposes of calculating the common space area, no more than 50% of the following restricted areas shall be used:

8.A.221 lands within the floodplain

8.A.222 wetlands

8.A.223 lands with slopes greater than 25%

8.A.23 Further subdivision of common land or its use for other than recreation, conservation, or agricultural, except for easements for underground utilities and sewage

disposal systems shall be prohibited. Structures or buildings accessory to recreation, conservation, or agricultural uses may be erected but shall not exceed 5% coverage of any common open land.

8.A.24 All common land shall be either:

8.A.241 Conveyed to a community association owned or to be owned by the owners of the lots within the development. If such a community association is utilized, ownership thereof shall pass with conveyances of the lots in perpetuity.

8.A.242 Conveyed to a non-profit organization, the principal purpose of which is the conservation or preservation of open space.

8.A.243 Conveyed to the township, at no costs, and be accepted by it for a park or open space use. Such conveyance shall be at the option of the township.

8.A.244 Conveyed with preservation/conservation easements to another party.

8.A.25 In any case where such land is not conveyed to the township, a restriction enforceable by the township shall be recorded to ensure that such lands shall be kept in an open or natural state and shall not be built for residential commercial, industrial use or developed for accessory uses such as parking or roadways. Such restrictions shall further provide for maintenance of the common land in a manner which will insure suitability for its function, appearance, cleanliness, and proper maintenance of drainage, utilities, and the like.

8.A.30 Community Association

8.A.31 A non-profit incorporated community association, condominium association, or corporation shall be established requiring membership of each lot owner in the Residential Cluster Development. The Association shall be responsible for the permanent maintenance of all communal water and sewage disposal systems, common open space, recreation and thoroughfare facilities. An association agreement or covenant shall be submitted to

the township for review, guaranteeing continuing maintenance of such common utilities, land and facilities and assessing each lot a share of maintenance expenses. Such an agreement shall be subject to the review and approval of the township.

- 8.A.32 Such agreements or covenants shall provide that in the event the association fails to maintain the common open land in reasonable order and condition in accordance with the agreement, then the township may offer notice to the association, enter upon such land, and maintain it in order to preserve the taxable values of the property within the development and to prevent the common land from becoming a public nuisance. The covenant shall also provide that the cost of such maintenance by the township shall be assessed against the properties within the development.
- 8.A.33 The community association shall be responsible for the payment of premiums for liability insurance, local taxes, the maintenance of recreational facilities on the common areas, payment of assessments for public and private improvements made to or for the benefit of the common area. The owners association shall be empowered to levy assessments against the owners of the plots within the development for the payment of expenditures made by the owner's association for the items set forth. Any assessments not paid by the owner, against whom such are assessed, shall constitute a lien on the plot of the owner.
- 8.A.34 Easements over common areas for access, ingress, and egress from and to public streets and walkways and easements for the enjoyment of common areas, as well as for parking, shall be granted to each plot owner.
- 8.A.35 Voting membership in the association shall initially be comprised of two classes, the developer and the property owners, to assure the developer of proportionate representation and control at a project during the construction, provided however, that such a system shall be structured so that votes cast by each class shall have equal force when 66% of the total units, or lots, authorized shall have been completed or sold or within 10 years of the initial creation of the association, which ever comes first.

8.A.40      Plan Requirements

8.A.41      Sketch Plan:    The minimum requirements of the sketch plans shall be in accordance with such in 4.10, Sketch Plans of the Subdivision and Land Development Ordinance for Township of Tilden. Additional requirements for the residential cluster development sketch plans include:

8.A.411      A sketch plan illustrating a subdivision or land development using existing zoning, including a preliminary count of the number of dwelling units or approximate square footage of building coverage.

8.A.412      A sketch plan showing a conceptual cluster plan, including a preliminary number of dwelling units of approximate square footage of building coverage.

8.A.413      A site analysis identifying the physical characteristics, amenities, resources, and constraints of the site, including but not limited to, the presence of wetlands as indicated by soils or National Wetland inventory maps or other method, restrictive slopes for inground sewage disposal systems, buildings, floodplains, sinkholes, water courses, tree masses, views into the site and out of the site, site topography, and adjacent land uses.

8.A.414      General location and proposed use of open space. Recreation, agricultural and other uses to generally be identified on the plan.

8.A.42      Tentative Residential Cluster Plan: The minimum requirements of the tentative residential cluster plan shall be in accordance with the Subdivision and Land Development Ordinance to the Township of Tilden, Section 4.21 - Section 4.25, and Section 4.27. In addition to these data items, a project performance analysis shall be submitted which addresses each of the performance issues outlined in VI.b. of this document.

- 8.A.43 The final plan shall be developed in accordance with the Subdivision and Land Development Ordinance for the Township of Tilden, Section 4.30 - Section 4.45.

8.A.50 Submission and Review Requirements

- 8.A.51 Application for approval of Residential Cluster Subdivisions shall be made in a three step process:

- 8.A.511 The first step will be the submission of Sketch Plans showing the site layout as a conventional subdivision and at least one alternative illustrating the Residential Cluster Plan. In addition to the requirements of the sketch plan, as required by the municipal subdivision and land development ordinance, the Sketch Plan for the Residential Cluster Development shall include a site analysis, identification of on-site natural features, points of access, location of major tree masses, identification of adjacent land uses, and other pertinent physical data to establish the inventory of physical characteristics.

The Sketch Plans shall be used for presentation to the municipal planning commission and supervisors for informal discussions concerning the applicability of the Residential Cluster Development zoning.

- 8.A.512 A tentative Residential Cluster Plan. The tentative plan shall include a site layout that conforms to the Residential Cluster Development zoning, and responds specifically to the following performance "tests":

- 8.A.5121 Housing: Each unit will be sited to provide privacy. Privacy may be developed by distance between units, planted buffers, screens, grading, or any combination of these. Such buffers will be designed to be natural in appearance. Each unit will be sited to provide a desirable living space: maximizing site amenities, and minimizing undesirable views or incompatible adjacent uses.

Architectural controls will be developed to assure units complement the project and each other.

- 8.A.5122 Site Features: The plan will be developed to preserve natural features and valuable resources as much as possible. Visual impacts of views out of the site, as well as views into the site, will be considered in locating units. Woodlands, water courses, wetlands, prime agricultural land, flood plains, etc. are to be considered as amenities and features. Each dwelling unit must be considered as to its relationship with the site features.

Areas set aside for open space must be appropriate for their intended purpose. Prime agricultural land should be considered for preservation. Grading of sites, construction of roads, sanitary sewage, and utility facilities, are to be planned with the concern to minimize the impact on a site. Cartway width, stormwater management facilities, pedestrian walkways, and other features will be designed to blend into the site. Buffers and screens shall be used to separate incompatible uses. A landscaping plan will be submitted for review and approval.

- 8.A.5123 Agricultural Use: Agricultural Use requires a "farm plan" to determine if the site provides a workable, practical arrangement for the purposes of agriculture. The farm plan should address the issues of dust, noise, odor, and its affects on adjoining properties. Special attention should be given to prevailing wind directions and slope.

The plan must address the negative issues as well as the practicality of the land for agricultural purposes. A "right to farm" easement should be provided.

8.A.5124 Ownership Maintenance of Open Space: A legal entity, such as a Homeowner's Association or a trust, must be created to "own" the land. The township must have the assurances the land will remain an open space/agricultural, perhaps through the easement to a third party such as a land trust or a conservancy group. Restrictions on use shall be clearly stated and outlined. Ownership/maintenance of sanitary sewage and stormwater facilities must be clearly established. The homeowner's association must have 100% required membership and police power to collect fees. Such documents describing the association will be provided to the township for review and approval, prior to the final approval of the plan.

8.A.5125 Community Impact and Project Feasibility: An analysis of the local character and land use shall be done as part of the tentative plan. The purpose of this analysis is to determine the existing character of the local community and to assess the impact of the project on that character. The feasibility of the project shall also be analyzed to determine if the project is viable in terms of an adequate number of residents to support the maintenance of the common areas and a viable preservation plan. This analysis shall be provided as part of the tentative plan approval.

8.A.5126 Utilities: A summary of utilities available, including electric, telephone, gas, cable, water, sewage disposal and stormwater will also be included.

8.A.513 A Final Plan shall be submitted to the township in accordance with Section 3.30, Final Plan of Subdivision and Land Development Ordinance for Township of Tilden.

Section 2. The provisions of this Ordinance shall be severable, and if any provisions shall be held to be unconstitutional, invalid, or illegal by any court of competent jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as legislative intent that this Ordinance would have been enacted if such unconstitutional, invalid or illegal provision had not been included therein.

Section 3: All ordinances or part of ordinances in conflict herewith, being the same, are hereby repealed.

Section 4: This Ordinance shall become effective in accordance with law.

DULY ENACTED AT A PUBLIC MEETING OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP, HELD ON THE 2nd DAY OF June, 1992.

BOARD OF SUPERVISORS OF  
TILDEN TOWNSHIP, BERKS COUNTY

Wellington R. Detmer  
Gary L. Wilhelm  
Roy W. Borker

Attest:

Linda M. Shallenberger  
Board Secretary