

CUMBERLAND TOWNSHIP, ADAMS COUNTY, PENNSYLVANIA

ORDINANCE NO. 2023-195

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF CUMBERLAND AS AMENDED, BY AMENDING VARIOUS SECTIONS OF CHAPTER 27, THE ZONING ORDINANCE OF CUMBERLAND TOWNSHIP

WHEREAS, the Board of Supervisors of the Township of Cumberland, Adams County, Pennsylvania deems it to be in the best interest and the general welfare of the citizens and residents of the Township to update and amend various sections of Chapter 27 of the Code of the Township of Cumberland, entitled “Zoning”; and

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Supervisors of Cumberland Township, Adams County, Pennsylvania, that the Zoning Ordinance of Cumberland Township, Chapter 27, of the Code of the Township of Cumberland as amended, is hereby amended and supplemented as follows:

SECTION 1. Zoning Map Change: The existing Zoning Map is amended by making the changes indicated on the Proposed Zoning Map which is attached hereto and incorporated herein as Exhibit A, and all proposed changes shown thereon are hereby adopted, and such map shall become the Cumberland Township Zoning Map. Section 27-2101 of the Code shall be amended to reflect the Zoning Map amendment.

SECTION 2. Chapter 27, Part 3, §27-301, entitled “Creation and Classification of Districts” is hereby amended by replacing the contents thereof with the following:

For the purposes of this chapter, the land contained within the boundaries of Cumberland Township is divided into districts. Each district is constituent of one of the general classifications for districts set forth in this chapter, as follows:

- A.** Agricultural Districts (Part 4).
- B.** Residential Districts (Part 5).
- C.** Mixed-Use Districts (Part 6).
- D.** Industrial Districts (Part 7).
- E.** Institutional Districts (Part 8).
- F.** Airport Districts (Part 9).
- G.** Open Space Districts (Part 10).
- H.** Overlay Districts (Part 14).
 - i. Airport Hazard Overlay
 - ii. Neighborhood Multi-Family Overlay (NMFO).
 - iii. Mixed Multi-Family Overlay (MMFO).

SECTION 3. Chapter 27, Part 5, §27-503 (2), entitled “R District Cluster Overlay” shall be amended by replacing §503(2) with the table set forth below.

Standards	Minimum Percent of Tract as Permanent Open Space				
	20%	30%	40%	50%	60%
Minimum Permanent Open Space Area (% of tract)	20	30	40	50	60
Maximum Tract Density (units per developable acre)	3.65	3.85	4.05	4.25	4.45
Minimum Tract Area (acres)	10	10	10	10	10
Public Water & Sewer Facilities Required	Yes	Yes	Yes	Yes	Yes
Minimum Lot Area per Unit (Square Feet)	8000	6500	5000	4000	3000
Permitted Dwelling Types	SFD, 2F	SFD, 2F	SFD, S FA	2F, S FA	SFD, 2F, S FA
Maximum Building Coverage (% of tract)	30	35	40	45	50
Maximum Impervious Coverage (% of tract)	40	45	50	55	60
Minimum Lot Width at Right-of-Way Line (feet)	35	35	35	30	20
Minimum Lot Width at Building Setback Line (feet)	50	45	40	35	25
Minimum Side Yard (aggregate)(feet)	20	17	15	12	10
Minimum Side Yard one side)(feet)	0	0	0	0	0
Minimum Rear Yard (feet)	25	20	18	16	15
Minimum Accessory Structures Setback from Property Lines	6	6	6	6	6
Maximum Height - Accessory Structures (feet)	16	16	16	16	16
Maximum Height - Accessory Structures (stories)	1.5	1.5	1.5	1.5	1.5
Minimum setbacks from streets (feet)					
Any building face to existing arterial street ultimate right-of-way	100	100	100	100	100
Any building face to existing collector street ultimate right-of-way	80	80	80	80	80
Any building face to existing local street ultimate right-of-way	50	50	50	50	50
Any building face to common parking area	10	10	10	10	10
Surface parking areas to existing arterial street ultimate right-of-way	40	40	40	40	40
Surface parking areas to existing collector street ultimate right-of-way	30	30	30	30	30
Surface parking areas to existing local street ultimate right-of-way	20	20	20	20	20
Minimum building setbacks from tract perimeter (feet):					
From other residential tracts	30	30	30	30	30

Standards	Minimum Percent of Tract as Permanent Open Space				
	20%	30%	40%	50%	60%
From non-residential tracts or district boundary lines	50	50	50	50	50
Minimum surface parking areas, driveways, interior roadways setbacks from tract perimeter (feet):					
From other residential tracts	15	15	15	15	15
From non-residential tracts or district boundary lines	20	20	20	20	20
Minimum principal building spacing (feet):					
Window wall to windowless wall	20	17	15	12	10
Window wall to window wall					
a) Front to front	50	45	40	40	40
b) Rear to rear	50	40	36	32	30
c) End to end	30	25	20	20	20
d) Front to rear	50	45	40	40	40
e) Front to end	40	35	30	30	30
f) Rear to end	35	30	25	25	25
Minimum Buffer Required along Street Frontage	B1	B1	B1	B1	B1
Minimum Buffer Required along tract boundary (excluding where Common Open Space abuts tract boundary)	D2	D2	D2	D2	D2

SECTION 4. Chapter 27, Part 5, §27-506, entitled “*R District Cluster Overlay District*” shall be amended by adding the following subsections to §27-506 (4) entitled “Density Regulations”:

A. No more than 25% of the developable acreage shall be devoted to Single-family attached residential dwellings and all developments including Single-Family attached structures must meet the standards applicable to development with 50% Permanent Common Open Space.

B. No more than 35% of the developable acreage shall be devoted to duplexes, and all developments including Single-Family attached structures must meet the standards applicable to development with 50% Permanent Common Open Space.

C. The amount of developable acreage devoted to such uses shall be calculated by using the total allowable units per developable acre for the development.

SECTION 5. Chapter 27, Part 14, entitled “Airport Hazard Area Overlay District” shall be retitled, “Overlay Districts” and be replaced with the following:

Part 14 OVERLAY DISTRICTS

§27-1401. Airport Hazard Area Overlay District

1. Intent. The purpose of this section is to create an airport district overlay that considers safety issues around the Gettysburg Regional Airport. More specifically, these provisions are designed to:
 - A. Regulate and restrict the height of man-made structures and objects of natural growth.
 - B. Create appropriate Airport Hazard Area overlay zones and establish the boundaries thereof.
 - C. Establish the permitting process for use within said Airport Hazard Area overlay zones.
 - D. Provide for enforcement, assessment of violation penalties, an appeals process and judicial review.
2. Relation to Other Zoning Districts. This zone shall not modify the boundaries of any underlying zoning district. Where identified, the Airport Hazard Area overlay shall impose certain requirements on land use and construction in addition to those contained in the underlying zoning district.
3. Definitions. Unless otherwise expressly stated, the following words shall, for the purposes of this Part, have the meanings indicated, unless context clearly indicates otherwise.

Airport Elevation: The highest point of the Gettysburg Regional Airport's useable landing area measured in feet above sea level, which is 552 feet.

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 the Gettysburg Regional 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 herein and the Act 164 of 1984 (PA Laws Relating to Aviation).

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 1, which is attached hereto and made a part hereof, is derived from the approach surface.

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 1, is based on the conical surface.

Department: Pennsylvania Department of Transportation.

FAA: Federal Aviation Administration of the United States Department of Transportation.

Height: for the purpose of determining the height limits in all zones set forth herein and shown on the zoning map, the datum shall mean sea level elevation unless otherwise specified.

Horizontal Surface (Zone): An imaginary plane 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 1, is derived from the horizontal surface.

Larger Than Utility Runway: 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.

Nonconforming Use: Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions herein or an amendment thereto.

Non-Precision Instrument Runway: 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.

Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth herein.

Precision Instrument Runway: A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision 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.

Primary Surface (Zone): An imaginary surface longitudinally centered on the runway, extending two hundred (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 1, is derived from the primary surface.

Runway: A defined area of an airport prepared for landing and takeoff of aircraft along its length.

Structure: An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formations and overhead transmission lines.

Transitional Surface (Zone): An imaginary surface that extends outward and upward from the edge of the primary surface to the horizontal surface at a slope of seven (7) feet horizontally to one (1) foot vertically (7:1). The transitional surface zone is derived from the transitional surface.

Tree: Any object of natural growth.

Utility Runway: A runway that is constructed for, and intended to be used by, propeller driven aircraft of 12,500 pounds maximum gross weight or less.

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures.

4. Establishment of Airport Hazard Area Overlay Zone.

The Airport Hazard Area Overlay Zone is hereby created and established, which zone is defined in the previous sections and illustrated on the Airport Hazard Area Overlay Map. Said map and all the notations, references, and other data shown thereon are hereby incorporated by reference into this Chapter and shall be as much a part of this Chapter as if fully described herein.

5. Permit Applications.

As regulated by 74 Pa. C.S.A. §5101 *et. seq.* and defined by 14 CFR Part 77.13(a), 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 Gettysburg Regional Airport, shall first, prior to requesting any necessary permits from the Township, notify the Department's Bureau of Aviation (BOA) by submitting PennDOT Form AV-57 to obtain an obstruction review of the proposal at least thirty (30) days prior to proposed commencement thereof. The Department's BOA response shall be included with any development or Zoning Permit application submitted to the Township for the permit application 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 Airport Hazard Area Overlay zone, however, such permit application shall be subject to review in accordance with all other provisions of this Chapter. If the Department's BOA returns a determination of a penetration of airspace, the development or Zoning Permit shall be denied, and the project sponsor may seek a variance from such regulations as outlined in this Part. The submission of PennDOT Form AV-57 is not 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.

6. Variances.

Any request to the Cumberland Township Zoning Hearing Board for a variance from the provisions of this Part shall include with the application for variance documentation in compliance with 14 CFR Part 77 Subpart B (FAA Form 7460-1 as amended or replaced). The Cumberland Township Zoning Hearing Board's determinations of whether to grant a variance shall 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 from the provisions of this Part shall consider which of the following categories the FAA has placed the proposed construction in:

- A. No Objection – The subject construction is determined not to exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination, a variance from the provision of this Part may be granted by the Cumberland Township Zoning Hearing Board.
- 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 from the provisions of this Part may be granted by the Cumberland Township Zoning Hearing Board contingent upon the implementation of mitigating measures as described in §27-1407, Obstruction Marking and Lighting.
- C. Objectionable – The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance from the provisions of this Part shall be denied by the Cumberland Township Zoning Hearing Board and the reasons for this determination shall be outlined to the applicant in accordance with the Zoning Hearing Board's regulations.

Requests for variances from the provisions of this Part shall be granted where it is duly found that a literal application or enforcement of the 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 set forth herein. Notwithstanding the foregoing, a variance shall not be granted where the FAA and the Department's BOA have categorized the proposed construction as Objectionable.

7. Use Restrictions.

- A. Limitation on Use. Notwithstanding any other provisions contained herein, no use shall be made of land or water within this Airport Hazard Area overlay 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; or create bird strike hazards or otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the airport.

B. Pre-Existing Non-Conforming Uses. The regulations prescribed herein 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 their effective date, or otherwise interfere with the continuance of a non-conforming use. No non-conforming use shall be structurally altered or permitted to grow higher, so as to increase the non-conformity, and a non-conforming use, once substantially abated (subject to provisions of the underlying zoning district) may only be reestablished consistent with the provisions herein.

8. Obstructing Marking and Lighting.

Any variance granted pursuant to the provisions herein may be conditioned according to the process described in §27-1405 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 variance, to install, operate and maintain such marking or lighting as deemed necessary to assure both ground and air safety.

9. Conflicting Regulations.

Where there exists a conflict between any of the regulations or limitations prescribed in this Part and any other regulation applicable to the same area, the more stringent limitation or requirement shall govern and prevail.

§27-1402. Neighborhood Multi-Family Overlay (NMFO)

1. Intent. The intent of the NMFO is to designate areas of the Township where utility and transportation infrastructure are available to accommodate Multi-Family dwellings and Single-Family attached dwellings, as well as provide for the permanent preservation of Open Space.
2. Eligibility/Prerequisites for development of Multi-Family and Single-Family attached dwellings in the Neighborhood Multi-Family Overlay.
 - A. Tract Size. The minimum tract size shall be 5 acres.
 - B. Maximum Density shall be 6 dwelling units per developable acre.
 - C. Common Open Space. Must provide not less than 50% Permanent Common Open Space and the Common Open Space must meet Open Space requirements of this Chapter and Chapter 22.
 - D. Primary access to the tract must be via an arterial or collector street.
 - E. Buffering. A type D2 Buffer as specified in Part 12, shall be required along all property lines not fronting on a street. Property lines abutting a street require a type B1 Buffer as specified in Part 12.
 - F. Sewer and Water Facilities. All Multi-Family and Single-Family attached development shall be served by central water facilities and public sanitary sewers or other centralized facilities acceptable to the Board of Supervisors and subject to the approval of the Pennsylvania Department of Environmental Protection or its successor agency, as well as the appropriate servicing authority.
 - G. All Multi-Family and Single-Family attached structures shall comply with the standards set forth in §27-503 (2) applicable to development with 50% Permanent Common Open Space, except as specifically modified herein.

- H. In the event that any provision hereof conflicts with any standard in the underlying district (except as specifically modified herein), the more restrictive standard shall apply.
- 3. Permitted Uses.
 - A. Multi-Family and Single-Family attached dwellings, in accordance with this section.
 - B. Any use permitted (by right, conditional use, or special exception) in the underlying district.

§27-1403. Mixed Multi-Family Overlay (MMFO)

- 1. Intent. The intent of the MMFO is to designate the secondary growth area of the Township, where utility infrastructure is planned and transportation infrastructure is available to accommodate Multi-Family dwellings and Single-Family attached dwellings, while providing for the permanent preservation of Open Space.
- 2. Eligibility/Prerequisites for development of Multi-Family and Single-Family attached dwellings in the Mixed Multi-Family Overlay.
 - A. Tract Size. The minimum tract size shall be 10 acres.
 - B. Maximum Density shall be 6 dwelling units per developable acre. Not more than 50% of the developable acreage of the tract shall be devoted to residential uses.
 - C. Common Open Space. Not less than 0.05 acres of Common Open Space must be provided for each dwelling unit and the Common Open Space must meet Common Open Space requirements of this Chapter and Chapter 22.
 - D. Primary access to the tract must be via an arterial or collector street.
 - E. Buffering. A type D2 Buffer as specified in Part 12, shall be required along all property lines adjacent to zoning district boundaries. Property lines abutting a street require a type B1 Buffer as specified in Part 12.
 - F. Sewer and Water Facilities. All Multi-Family and Single-Family attached development shall be served by central water facilities and public sanitary sewers or other centralized facilities acceptable to the Board of Supervisors and subject to the approval of the Pennsylvania Department of Environmental Protection or its successor agency, as well as the appropriate servicing authority.
 - G. All Multi-Family and Single-Family attached structures shall comply with the standards of the underlying district.
 - H. In the event that any provision hereof conflicts with any standard in the underlying district (except as specifically modified herein), the more restrictive standard shall apply.
- 3. Permitted Uses.
 - A. Multi-Family and Single-Family attached dwellings, in accordance with this section.
 - B. Any use permitted (by right, conditional use, or special exception) in the underlying district.

SECTION 6. Chapter 27, Part 6, §27-602, entitled “Permitted Uses – Mixed Use Districts” is amended by removing the following uses as permitted uses in the Mixed Use (MX) District:

- Single-family detached residential dwellings (SFD)
- Two-family residential dwellings (2F)

SECTION 7. Chapter 27, Part 6, §27-602, entitled “Permitted Uses – Mixed Use Districts” is amended by removing the following uses as permitted uses in all Mixed Use Districts (including VMX, MX, BP, and TND):

- Single-family attached residential dwellings (SFA)
- Multi-family residential dwellings (MF)

SECTION 8. Chapter 27, Part 6, §27-602, entitled “Permitted Uses – Mixed Use Districts” is amended to add the following uses as permitted uses in the Mixed Use (MX) District:

- A Single-family detached residential dwelling (SFD) built on a lot existing prior to August 22, 2023
- A Two-family residential dwelling (2F) built on a lot existing prior to August 22, 2023.

SECTION 9. Repealer. All provisions of previous Ordinances of the Township of Cumberland which are contrary to this Ordinance are expressly repealed.

SECTION 10. Savings Clause. In all other respects, the Code of the Township of Cumberland shall remain as previously enacted and ordained.

SECTION 11. Severability. The provisions of this Ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid to unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance.

SECTION 12. Effective Date. This Ordinance shall take effect in accordance with law.


ENACTED AND ORDAINED on this 22nd day of August, 2023. This Ordinance shall become effective 5 days after adoption.

ATTEST:

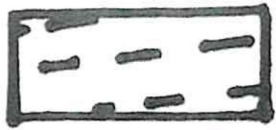
CUMBERLAND TOWNSHIP BOARD OF SUPERVISORS
CUMBERLAND TOWNSHIP,
ADAMS COUNTY, PENNSYLVANIA



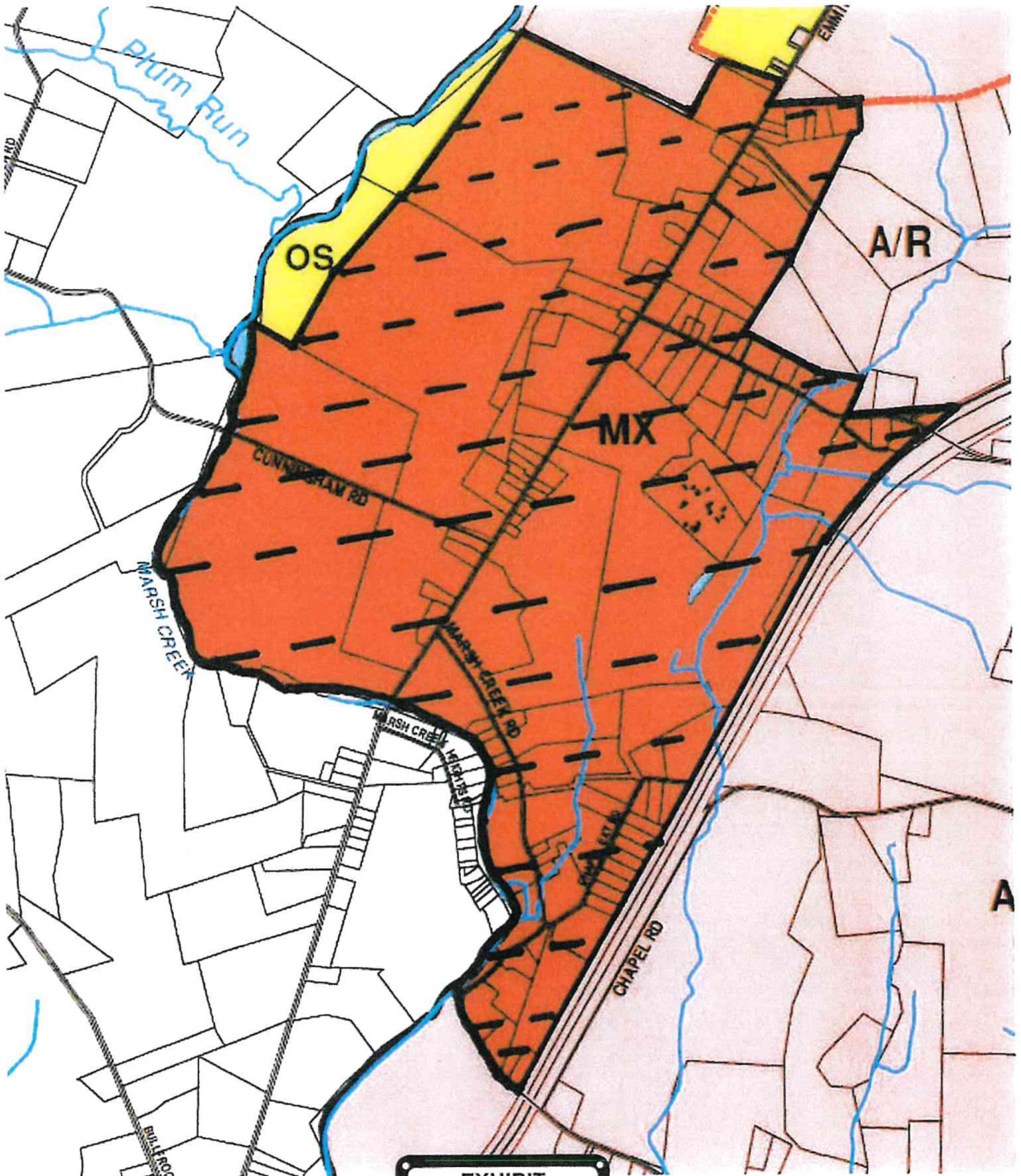
Michele Long, Township Secretary

By: 

Shaun Phiel, Chairperson



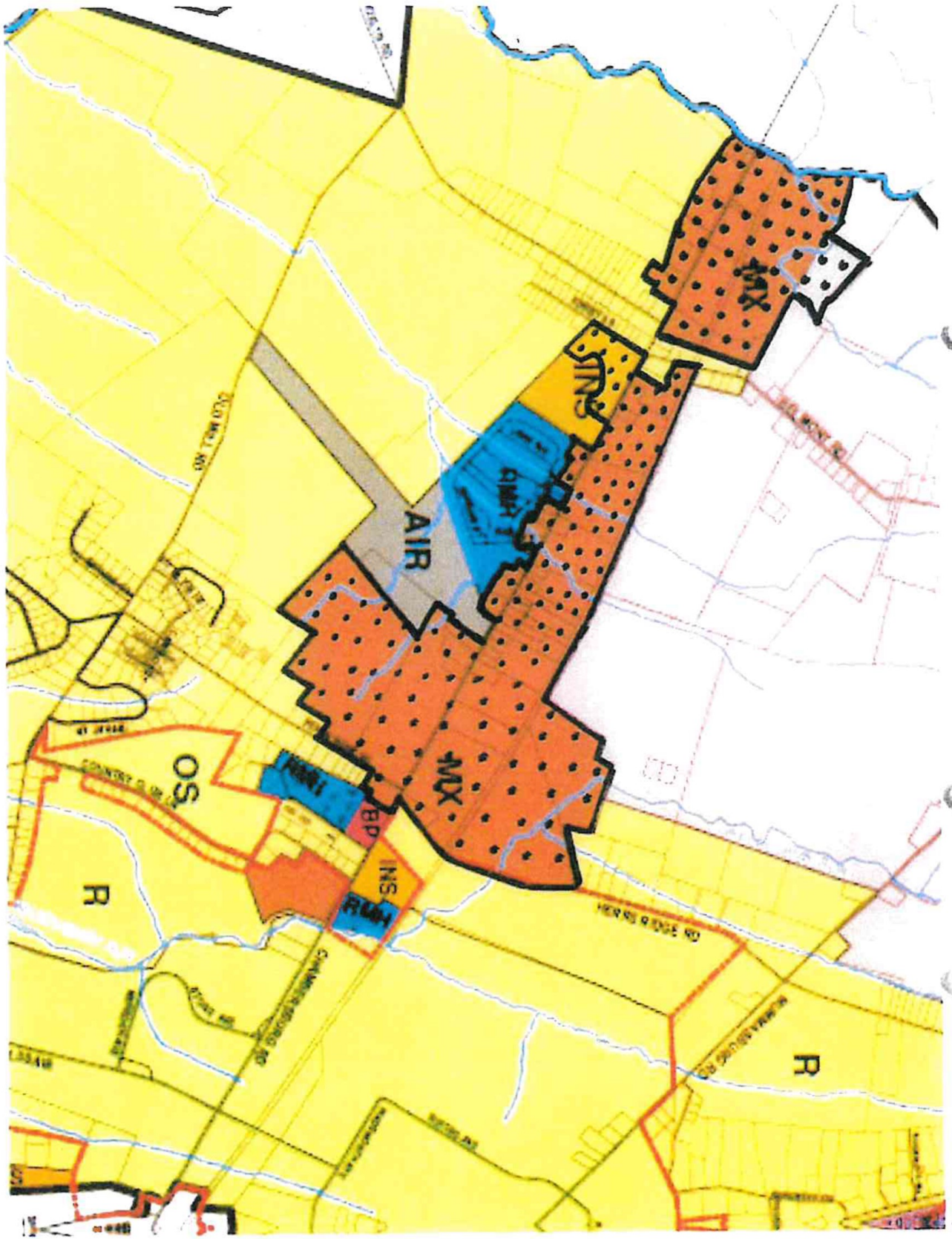
- Mixed Multi-Family Overlay

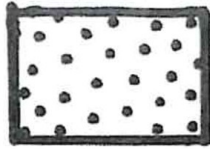


EXHIBIT

A

 - Neighborhood Multi-Family Overlay





- Neighborhood Multi-Family
Overlay

