

ORDINANCE NO. 2008-03

AN ORDINANCE TO AMEND THE LOWER ALLEN TOWNSHIP ZONING ORDINANCE BY ADOPTING A CONSERVATION PARK OVERLAY DISTRICT WHICH WOULD APPLY TO LANDS ZONED R-2 SINGLE FAMILY RURAL RESIDENTIAL DISTRICT AND INCLUDE APPLICABLE DEVELOPMENT STANDARDS.

The Board of Commissioners of the Township of Lower Allen hereby ordains:

Section 1. Section 220-6 – Definitions, of the Zoning Ordinance for Lower Allen Township is amended by adding the following new term:

AGE QUALIFIED COMMUNITY – A primarily residential development that is developed as an independent community and may contain complementary accessory retail, personal service, and other associated uses; and which is authorized under the Federal Fair Housing Act, as amended by the Housing for Older Persons Act of 1995, which requires that dwellings be limited to those:

- (1) Intended for, and solely occupied by persons 62 years of age or older; or
- (2) intended and operated for occupancy by persons 55 years of age or older provided at least 80% of the occupied units are occupied by at least one person who is 55 years of age or older.

Section 2. §220-26 – Permitted uses, of the Zoning Ordinance for Lower Allen Township are amended by adding the following:

- S. Conservation Park Overlay District in accordance with §220-129.1.

Section 3. The Code of the Township of Lower Allen, Chapter 220, entitled Zoning, Article XIV Use Standards shall be amended to provide a new section, §220-129.1 creating an Conservation Park Overlay District and adding the following standards and requirements.

§220-129.1 A. Purposes. The purposes of the Conservation Park Overlay District regulations are as follows:

- (1) To provide an effective means of responding to site conditions for the preservation of floodplains, wetlands, streams, woodlands and other natural and scenic features.

- (2) To provide for the creation, retention and protection of open space within the Township.
- (3) To encourage the provision of an additional housing type opportunity, particularly for those adults 55 years of age and older.
- (4) To allow for the preservation of recreational assets in the community that might be lost to development without an innovative and flexible type of development.

Section 4. §220-129. E – Standards and requirements for the Open Space Development standards, §220-129, are incorporated by reference into this overlay district and are hereby amended by including additional provisions as provided herein:

§220-129 (E) (1) (c). Age Qualified Community, which may include multi-purpose facility(s), clubhouse, community center, or other central gathering place(s), entrance guard station and/or mechanical entrance gates, administrative sales office(s), library(s), banquet hall and/or restaurants, fitness center(s), health spa(s), swimming pools, tennis courts, and place of worship. For neighborhood commercial uses associated with this use, subsection 220-129 E. (1) (b) [2] shall not apply.

The development of an Age Qualified Community shall be limited to a parcel or parcels of land with a minimum combined area of seventy-five (75) acres under single ownership, or multiple ownership through an association, joint venture, partnership, or other legal entity documented by a Cooperative Operating Agreement. If the 75 acres involves more than one parcel, the parcels must be contiguous, but a road, for purposes of this amendment, shall not constitute a separation of parcels.

If other than a single ownership or a single parcel, the Cooperative Operating Agreement between the owners of all of the parcels involved shall establish the rights and obligations of the parties to utilize and/or develop the respective properties to comply with the criteria herein. The total area of the multiple parcels shall be the land and area utilized to determine the gross area, density and design performance standards compliant with this Ordinance.

§220-129 E (1) (d). Multifamily dwelling units, which may include multi-purpose facility(s), clubhouse, community center, or other central gathering place, entrance guard station and/or mechanical entrance gates, administrative sales office(s), library(s), banquet hall and/or restaurants, fitness center(s), health spa(s), swimming pools, tennis courts, or place of worship. For neighborhood commercial uses associated with this use, subsection 220-129 E. (1) (b) [2] shall not apply.

Multifamily dwelling units shall be limited to a parcel or parcels of land with a minimum combined area of seventy-five (75) acres under single ownership, or multiple ownership through an association, joint venture, partnership, or other legal entity documented by a

Cooperative Operating Agreement. If the 75 acres involves more than one parcel, the parcels must be contiguous, but a road, for purposes of this amendment, shall not constitute a separation of parcels.

If other than a single ownership or a single parcel, the Cooperative Operating Agreement between the owners of all of the parcels involved shall establish the rights and obligations of the parties to utilize and/or develop the respective properties to comply with the criteria herein. The total area of the multiple parcels shall be the land and area utilized to determine the gross area, density and design performance standards compliant with this Ordinance.

§220-129 E (1) (e). Continuing Care Retirement Community (CCRC) shall be limited to a parcel or parcels of land with a minimum combined area of seventy-five (75) acres under single ownership, or multiple ownership through an association, joint venture, partnership, or other legal entity documented by a Cooperative Operating Agreement. If the 75 acres involves more than one parcel, the parcels must be contiguous, but a road, for purposes of this amendment, shall not constitute a separation of parcels.

If other than a single ownership or a single parcel, the Cooperative Operating Agreement between the owners of all of the parcels involved shall establish the rights and obligations of the parties to utilize and/or develop the respective properties to comply with the criteria herein. The total area of the multiple parcels shall be the land and area utilized to determine the gross area, density and design performance standards compliant with this Ordinance.

§220-129.E (2). Permitted dwelling types. Single-family and semidetached dwellings; single-family attached dwellings in accordance with §220-56; two-family attached dwellings; and multifamily dwelling units shall be permitted within open space developments.

§220-129 E (3). Allowable density. Allowable base (non-bonus) density shall not exceed one residential unit per gross acre, excluding existing dedicated street rights-of-way, except as otherwise provided by bonus densities authorized herein.

§220-129 F (3). The maximum building height shall be no greater than 35 feet. Multifamily dwelling units, whether Age Qualified or not, and CCRC buildings shall not exceed 75 feet in height. Tract setbacks shall increase per the requirements of §220-49 (an additional setback of one foot for all sides of the tract for each foot exceeding 50 feet). However, in no case shall an overall mean height of 60 feet for all buildings within the subject site be exceeded.

§220-129 G (1) Common open space. Common open space shall be provided for and designed as follows:

- (1) Not less than 35% of the gross area of the open space development shall be allocated to and shall remain in passive common open space or Active Developed Recreation Land. Common open space shall be deed restricted or placed within a trust or conservancy to prohibit future subdivision or development, except for (i) agricultural, passive recreation land, equestrian and existing cemetery uses, which may be permitted with the approval of the Board of Commissioners; and (ii) Active Developed Recreational Land which qualifies for bonus density under §220-129.G (2) (c). Common open space shall be used for social, passive or Active Developed Recreational or natural environmental preservation purposes. The common open space shall typically include all or part of the following resources:
- (a)Mature woodlands.
 - (b)Historic, archaeological or cultural features listed or eligible to be listed on the National Register of Historic Places
 - (c)Wetlands.
 - (d)Regulatory floodplains.
 - (e)Slopes exceeding 25%.

§220-129 G (2) (c). Bonus densities shall be provided for the provision of usable common open space for unimproved or improved active recreational uses, including but not limited to playing ball fields and/or courts and golf courses and other active recreational uses set forth in this Section. Usable common open space shall not contain environmentally sensitive areas as defined here unless it is an integral part of the active recreational use (e.g. boating areas in a floodplain, or ponds or wetlands on a golf course). Bonus densities shall be equal to the total land area provided as usable open space x the maximum permitted density. For example, if one acre of usable open space was provided, an additional dwelling unit (100% of density based upon total usable common open space provided x maximum density) would be permitted within the development.

[1] In addition, an Age Qualified Community, Multifamily Dwelling community and Continuing Care Retirement Community, shall be entitled to the following bonus density provisions if the corresponding criteria are met:

[a] In an R-2 zoning district, the maximum density may be increased to six (6) dwelling units/gross site acre for Age Qualified communities; and five (5) dwelling units / gross site acre for Multifamily Dwelling communities and Continuing Care Retirement Communities subject to the following conditions:

- i. The minimum amount of common open space is increased to 50% or more; and
- ii. A minimum of sixty-six percent (66%) of the required common open space must be for Active Developed Recreational Land and/or buildings, including golf course, driving range, miniature golf, indoor and outdoor tennis courts, indoor and outdoor swimming pools, river and lake fishing, river boating, fitness centers, spas, basketball courts, ball fields, card, craft and art facilities, paved walking and bike trails, gardens, resident services center, community center(s), pro shop for a golf course, restaurant and dining facilities, along with necessary and appropriate accessory buildings and areas essential to and necessary to house, store and support the aforementioned activities, facilities and amenities. The balance of the open space/land may be left in a passive state for the retention of existing environmental and natural features. Entitlement to the stated maximum density is conditioned upon a minimum of eight (8) diverse facilities as listed above or comparable or similar to those listed above, as part of the Active Developed Recreational Land, buildings and programs.
- iii. Any development proposed under this provision must provide for public or community sanitary sewer service, and public water. The streets within the development shall not be dedicated to the Township as public streets, but rather shall remain the responsibility of the homeowners association or other private entity.

[b] In an R-2 zoning district, the maximum density may be increased by an additional one (1) additional dwelling

unit/gross site acre for Age Qualified, and Multifamily communities subject to meeting the following additional conditions:

- i. Community building(s) including clubhouse(s), pro shop, fitness center(s), enclosed pools, spas and gyms, bowling alleys, dining facility(s), resident services center, and all buildings necessary to support and facilitate the aforementioned Active Recreational programs as more fully set forth in (1) ii, supra.
- ii. The minimum total square feet of the aforementioned buildings shall be equal to the total of 50 square feet per residential dwelling proposed for the total residential community of Age Qualified and/or Multifamily units.
- iii. The density bonus of one unit under this subsection may only be applied and constructed on after acquired land, that is, contiguous to the principal tract developed pursuant to the provisions of this section. If more than one parcel is involved, the parcels must be contiguous, but a road, for purposes of this amendment, shall not constitute a separation of parcels.

§220-129 G (2) (f). For the purpose of calculating density, common open space, and Active Developed Recreational Land, the lands owned by the applicant or controlled through a Cooperative Operating Agreement, which are situated within an adjacent municipality, but are contiguous to the subject development, site, or under the same ownership, may be used for these above computations, provided the proposal is consistent with all other applicable zoning regulations, and provided that such land is permanently restricted to open space or recreation by restrictions acceptable to the respective Township(s). If more than one parcel is involved, the parcels must be contiguous, but a road, for purposes of this amendment, shall not constitute a separation of parcels.

§220-129 G (2) (g). The Active Developed Recreational Land and Community Buildings may be open to the general public and in such cases, a fee may be charged for use of these amenities. As a general policy and where such use by the general public does not adversely impact the use of such amenities by resident owners, such use by the general public is encouraged.

§220-129.G (4) (c). The administration, management, and ownership of common areas and facilities may be through the developer, a Cooperative Operating Agreement by or among owners, a homeowners' association(s), or jointly, in conformity with either the Pennsylvania Uniform Condominium Act, or the Uniform Planned Community Act, as amended. In addition to the preparation of a Cooperative Operating Agreement, the developer shall provide a copy of any relevant declarations, deed restrictions, association bylaws, or covenants to the municipality prior to the sale of any dwelling unit for the purpose of determining that such documents are not contrary to the provisions of this Ordinance.

§220-129.H – Multiple Uses. An open space development may include any one or more of the uses permitted in §220-129.E(1), provided that all of the following requirements are met where applicable:

Section 5.

All other sections, parts and provisions of the Lower Allen Township Zoning Ordinance shall remain in full force and effect as previously enacted and amended. Should any section, subsection, sentence, clause, part, or provision of the Open Space development standards, §220-129, that are in effect as of January 1, 2008 be rescinded, amended, or otherwise changed, the Open Space development standards will remain in effect for the purpose of interpreting and utilizing the Conservation Park Overlay District .

Section 6.

In the event that any provision, section, sentence, clause or part of this Ordinance Amendment shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of this Ordinance Amendment, it being the intent of the Township that the remainder of the Ordinance shall be and shall remain in full force and effect.

Section 7.

All ordinances or resolution or parts of ordinances or resolutions, insofar as they are inconsistent with this Ordinance are hereby repealed.

Section 8.

This Ordinance shall be effective on the earliest date allowed by law.

DULY ORDAINED AND ENACTED as an Ordinance of the Township of Lower Allen, Cumberland County, Commonwealth of Pennsylvania by the Township Board of Commissioners on this _____ day of _____, 2008 in lawful session duly assembled.

TOWNSHIP OF LOWER ALLEN

By: _____
Chair of the Commission

Attest _____
Secretary of the Township

APPROVED AS AN Ordinance this _____ day of _____, 2008.

[TOWNSHIP SEAL]