

ORDINANCE NO. 2021-__

AN ORDINANCE OF THE TOWNSHIP OF CUMRU, BERKS COUNTY, PENNSYLVANIA, AMENDING THE CUMRU TOWNSHIP ZONING ORDINANCE OF 2009 TO CREATE A NEW MIXED-USE AND GENERAL COMMERCIAL ZONING DISTRICT AND SET THE PARAMETERS THEREOF; AND TO MAKE CERTAIN TECHNICAL CORRECTIONS TO THE ZONING ORDINANCE; CORRECTING GRAMMATICAL ERRORS AND REMEDIATING VARIOUS INCONCISTENCIES.

WHEREAS, the Board of Commissioners of the Township of Cumru desires to amend the Cumru Township Zoning Ordinance and the Zoning Map of the Township to create a new Mixed-Use and General Commercial Zoning District and to establish the parameters thereof.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED and it is hereby adopted, enacted and ordained by the Board of Commissioners of Cumru Township, Berks County, Pennsylvania (“Township”), as follows:

SECTION 1. The Cumru Township Zoning Map is amended hereby and shall henceforth be as set forth at Exhibit “A” hereto. In addition, the Cumru Township Zoning Ordinance of 2009, as heretofore amended, is hereby amended to add a new Section 411, which shall state, as follows:

“Section 411: Mixed-Use and General Commercial (MUGC) Zoning District

(A) Purpose: The MUGC Zoning District generally contains a mixture of commercial and residential uses in a suburban community setting. The purpose of the MUGC Zoning District is to encourage and promote well-planned, suitable and appropriate mixed use developments with residential and commercial components within the MUGC Zoning District. The focus is to allow a more balanced mix of uses in a mixed-use development, to provide for the diverse needs of the residents of the Township and to allow developers the flexibility to accomplish such goals without sacrificing the existing image and character of the surrounding neighborhood. The purpose of the MUGC Zoning District is also to encourage efficient land use by facilitating compact, high-intensity development. A mixed-use development should be safe, comfortable and attractive to pedestrians, patrons and residents.

(B) Uses by Right: The following principal uses and their accessory uses are permitted within the MUGC Zoning District, provided that the use is approved by the Zoning Officer and complies with all supplemental development and design requirements specified by this Ordinance and the other Ordinances and Resolutions of the Township.

- (1) Banks and Financial Institutions;
- (2) Business and Professional Offices, subject to Section 808 of this Ordinance;
- (3) Convenience Stores;
- (4) Medical, Dentist, Vision and Counseling;

- (5) Municipal Uses;
- (6) Restaurants;
- (7) Retail Business Uses;
- (8) Category 1 Home Occupation, subject to Section 715.1 of this Zoning Ordinance;
- (9) Personal Service Establishment, subject to Section 840 of this Ordinance;
- (10) Multi-family Dwellings, subject to Section 705 of this Ordinance, as applicable;
- (11) Townhouses, subject to Section 704 of this Ordinance, as applicable;
- (12) Apartment Buildings, subject to Section 705 of this Ordinance, as applicable;
- (13) Condominiums;
- (14) Drive-Through Establishments, without the need for a Special Exception, as may otherwise be provided for in this Zoning Ordinance; and
- (15) Home Day Care, subject to Section 819.1 of this Ordinance.

(C) Uses by Conditional Use: The following principal uses and their accessory uses are permitted within the MUGC Zoning District, provided that the use is approved by the Board of Commissioners and complies with all supplemental development and design requirements specified by this Ordinance and the other Ordinances and Resolutions of the Township.

- (1) Mini-Malls, subject to Section 836 of this Ordinance;
- (2) Nursery or Landscape Center, subject to Section 839 of this Ordinance;
- (3) Non-Commercial Recreational Uses, subject to Section 844.1 of this Ordinance;
- (4) Commercial Recreational Uses, subject to Section 844.2 of this Ordinance;
- (5) Adaptive Reuse and Redevelopment, subject to Section 602 of this Ordinance;
- (6) Mixed-Use Commercial and Residential Developments, subject to Section 716 of this Ordinance;
- (7) Commercial Day Care Center;
- (8) Club, Lodge or Social Quarters, subject to Section 810 of this Ordinance; and
- (9) Veterinary Hospitals or Animal Clinics, subject to Section 853 of this Ordinance.

(D) Utility and Dimensional Requirements: Matrix Chart 10 provides the basic utility and dimensional requirements for all uses permitted by Conditional Use within the MUGC

Zoning District. Where a discrepancy should exist between the provisions contained in the text and the provisions contained in Matrix Chart 10, the provisions contained in the text shall prevail. In addition, the Board of Commissioners may waive strict conformity with dimensional and other requirements in connection with a Conditional Use approval, should the Board of Commissioners determine that it is in the best interest of the community to do so.

- (E) **Accessory Uses and Structures:** Accessory uses and/or structures shall be permitted uses in the MUGC Zoning District provided they are located on the same lot as the principal use, they are clearly subordinate to the principal use; they have been properly addressed as a part of the application for a permit, subdivision, land development or conditional use approval, and they comply with all other supplemental development and design requirements specified by the Township. Accessory uses and structures may include transportation facilities and utility facilities that have been approved by appropriate agencies having jurisdiction, which are necessary to support the principal use.
- (F) **Subdivision and Land Development Requirements:** Where required to comply with the subdivision and land development provisions of the Township, a subdivision plan and/or land development plan shall be submitted to the Township for review and consideration prior to the issuance of a building permit for any use permitted in the MUGC Zoning District. If a subdivision or land development plan is required, the plan shall be prepared to comply with the appropriate provisions established by the Township.
- (G) **Off-Street Parking and Loading:** Given the nature of the MUGC Zoning District, which is intended to be a mix of residential and commercial uses, application of the provisions of Article 10 of this Ordinance may or may not be appropriate for every proposed use. In connection with a Conditional Use application, the Board of Commissioners may either waive, or further restrict, the off-street parking and loading requirements set forth elsewhere herein.
- (H) **Signs:** Given the nature of the MUGC Zoning District, which is intended to be a mix of residential and commercial uses, application of the provisions of Article 11 of this Ordinance may or may not be appropriate for every proposed use. In connection with a Conditional Use application, the Board of Commissioners may either waive, or further restrict, the signage requirements set forth elsewhere herein.
- (I) **Supplemental Regulations:** Given the nature of the MUGC Zoning District, which is intended to be a mix of residential and commercial uses, application of the Supplemental Regulations provisions of Ordinance may or may not be appropriate for every proposed use. In connection with a Conditional Use application, the Board of Commissioners may either waive, or further restrict, the Supplemental Regulations requirements set forth elsewhere herein.
- (J) **Nonconformities:** Principal Uses that are classified as nonconforming shall comply with the general provisions specified under Section 12 of this Ordinance. In cases where the dimensional provisions of a nonconforming use are not specified by this Ordinance, the Zoning Officer shall assign the most restrictive requirements for lot area, building

setback, yard setback, building height, building coverage, lot coverage and other dimensional criteria of a similar permitted use within the MUGC Zoning District.”

SECTION 2. Section 202 of the Cumru Township Zoning Ordinance of 2009 is hereby amended to amend the definition of “Mixed-Use Commercial and Residential Developments” to state, in its entirety, as follow:

“Mixed-Use Commercial and Residential Developments: A combination of uses within a building or group of buildings that includes a permitted commercial use or permitted commercial uses within such building or buildings and a permitted residential use or permitted residential uses within such building or buildings, as regulated under Section 716 of this Zoning Ordinance. Both the commercial and residential uses need not be located in the same building.”

SECTION 3. Section 602(C)(1) and Section 602(C)(2) of the Cumru Township Zoning Ordinance of 2009 is hereby amended to state, in its entirety, as follows:

“(1) The land uses permitted by right, conditional use and/or special exception within the underlying LC, HC or MUGC Zoning Districts shall be permitted by Conditional Use as part of the Adaptive Reuse and Redevelopment Overlay District, provided that the uses are located within the LC, HC or MUGC Zoning Districts. As a part of the Conditional Use application, the Board of Commissioners may consider a combination of non-residential and/or residential uses on the property or within the existing buildings on the property, provided that such combination of non-residential and/or residential uses are generally compatible with the existing land use characteristics of other properties within 500 feet of the property being considered for adaptive reuse and redevelopment.”

“(2) The land uses permitted by right, conditional use and/or special exception within the underlying GI Zoning District shall be permitted by Conditional Use as part of the Adaptive Reuse and Redevelopment Overlay District, provided that the uses are located within the GI Zoning District. As a part of the Conditional Use application, the Board of Commissioners may consider a combination of non-residential uses on the property or within the existing buildings on the property, provided that such combination of non-residential uses are generally compatible with the existing land use characteristics of other properties within 500 feet of the property being considered for adaptive reuse and redevelopment.”

SECTION 4. Section 716 of the Cumru Township Zoning Ordinance of 2009 is hereby amended to state, in its entirety, as follows:

"Section 716: Mixed-Use Commercial and Residential Developments

- (A) Mixed-use commercial and residential developments, as defined in Article 2 of this Zoning Ordinance, are permitted by Special Exception in the LC Zoning District and by Conditional Use in the MUGC Zoning District.
- (B) Mixed-use commercial and residential developments, containing a combination of commercial and residential uses, shall be designed in accordance with the following design criteria:

1. A minimum of 0.50 acres of net land area shall be required for the development.
2. A group of buildings shall be permitted on the same parcel of land being developed, provided that the architectural and streetscape characteristics are harmonious.
3. Sanitary Sewer and Water facilities, public or on-lot, shall be of sufficient capacity to service the proposed development and shall meet all requirements of Township Ordinances, all Pennsylvania statutes and all rules and regulations of the Pennsylvania Department of Environmental Protection. Evidence of such sufficiency and compliance shall be made a part of the Special Exception or Conditional Use application, as applicable.
4. All utilities serving the development shall be planned and installed in accordance with the specifications of each utility provider providing service.
5. Each residential unit shall contain its own separate bedroom or bedrooms, bathroom and kitchen.
6. Solid waste and recyclable collection for the commercial and residential components shall be compliant with the Ordinances and Resolutions of the Township. This may require public collection of solid waste and recyclables or private contracting for solid waste and recyclables collection, or both, depending on the nature of the development.
7. The parking requirements of this Zoning Ordinance must be met for all uses in the development unless the Board of Commissioners determines to reduce the parking requirements during the Conditional Use hearing for developments in the MUGC Zoning District.
8. A landscaping plan shall be submitted with the Special Exception or Conditional Use application, as applicable. Such landscaping plan shall provide for reasonable and necessary buffering of residential area and shall be consistent with landscaping of neighboring and nearby properties.
9. The development plan shall demonstrate that the development has access to fire, ambulance and police vehicles sufficient for assistance in an emergency.
10. The overall development plan shall be consistent with, or superior to, the surrounding neighborhood and properties.
11. The development shall otherwise comply with all Ordinances and Resolutions of the Township and the laws of the Commonwealth of Pennsylvania.

(C) The following dimensional requirements shall apply to all Mixed-Use Commercial and Residential Developments:

1. The building setback line should be established forty (40) feet from the street right-of-way.

2. Each building in the development shall be at least forty (40) feet from the property line of properties not owned by the applicant.
3. The maximum building coverage shall not exceed sixty-five (65) percent of the total land area in the development.
4. The maximum lot coverage shall not exceed eighty (80) percent of the land area in the development.
5. The maximum building height shall not exceed forty (40) feet, unless a fire suppression sprinkler system is installed, in which case the building height may be not higher than fifty (50) feet.

(D) The developer shall agree to allow inspections of the development by Township Codes and Zoning Officers, not less often than annually, if so-requested by the Township.

(E) As a part of the Special Exception or Conditional Use hearing process, the Zoning Hearing Board or Board of Commissioners, as applicable, may consider optional design and site development alternatives if the standard design and dimensional requirements are unwarranted or inappropriate based on existing site conditions.

(F) The Special Exception or Conditional Use application and hearing process, as applicable, should be commenced following an initial review of the land development plan by the Cumru Township Planning Commission.”

SECTION 5. Section 1202(B) of the Cumru Township Zoning Ordinance of 2009 is hereby amended to state, in its entirety, as follow:

“(B) Any lot held in single and separate ownership that does not meet the minimum size or width requirements of the zoning district in which it is located may be used for any use permitted in such zoning district, provided that all yard, height, coverage and open space requirements of such zoning district are met. However, if two (2) or more lots, combination of lots, or portions of lots, with continuous frontage are held under single ownership, and if any of such lots does not meet the minimum size or width requirements of the zoning district in which such lot is located, then the lots at issue shall be considered to be a single undivided parcel for the purposes of this Zoning Ordinance.”

SECTION 6. Section 202 of the Cumru Township Zoning Ordinance of 2009 is hereby amended to redefine the term “Building,” as follows:

“Building: Any structure that is erected on the ground that is designed to form an enclosure, with full or partial walls and a roof for occupancy or storage of persons, animals or property of any kind.”

SECTION 7. Section 202 of the Cumru Township Zoning Ordinance of 2009 is hereby amended to as a definition of “Setback” as follows:

“Setback: The minimum required distance from a point designated in this Zoning Ordinance to the location of an improvement, measured at right angles from the point designated in this Zoning Ordinance to the location of the improvement at issue.”

SECTION 8. Section 202 of the Cumru Township Zoning Ordinance of 2009 is hereby amended to as a definition of “Pole Building” as follows:

“Pole Building: A building or structure designed for the storage of vehicles and materials constructed with poles or posts buried in the ground or on a foundation to provide the vertical structural support, along with girts to provide horizontal support.”

SECTION 9. Section 202 of the Cumru Township Zoning Ordinance of 2009 is hereby amended to redefine “Accessory Building or Structure” as follows:

“Accessory Building or Structure: Any building or structure that is subordinate to the principal building and use on a lot and used for purposes customarily incidental to those of the principal building and use. Accessory buildings and structures may be permanently affixed to the land or may be movable structures, such as trailers, storage containers or similar movable structures intended for occupancy or storage of persons, animals or property of any kind.”

SECTION 10. Section 903.1 (A) (1) of the Cumru Township Zoning Ordinance of 2009 is hereby amended to state, in its entirety, as follow:

“(1) The accessory building, structure or use shall be subordinate and customarily incidental to the principal building or use and utilized as an accessory use on the lot on which the principal building and use is located. Any such building, structure or use shall be of a size and character that is clearly subordinate to the principal building and use and not of a size or character which would or may constitute a separate or additional principal building, structure or use.”

SECTION 11. Section 806.2 (B) (5) of the Cumru Township Zoning Ordinance of 2009 is hereby amended to state, in its entirety, as follow:

“(5) A general service, maintenance and repair facility shall be permitted provided that it is conducted within an enclosed building that complies with the applicable building codes requirements for a commercial automotive service, maintenance and repair use within the Township.”

SECTION 12. Section 806.2 of the Cumru Township Zoning Ordinance of 2009 is hereby amended to delete Subsection 806.2 (B) (7).

SECTION 13. Section 1002 (M) of the Cumru Township Zoning Ordinance of 2009 is hereby amended to state, in its entirety, as follow:

“(M) No commercial vehicle or part thereof having a gross weight of more than 26,000 pounds or in excess of twenty (20) feet in length shall be stored along any street or on any parcel of land within the AG, RC, LR, MR, HR, LC or MUGC Zoning Districts. Further, no commercial vehicle or part thereof having a gross weight of more than 26,000 pounds or in excess of twenty (20) feet in length shall be parked along any street or on any parcel of land within the AG, RC, LR, MR, HR, LC or MUGC Zoning Districts unless for the purpose of temporary loading or unloading of such vehicle. Upon completion of the loading or unloading of such vehicle, it shall be immediately removed from its location.”

SECTION 14. The Cumru Township Zoning Ordinance of 2009 is amended to add a new Section 717, as follows:

“Section 717: The provisions of Section 802 (C) of this Zoning Ordinance pertaining to the standards for Noise and Vibration in Non-Residential Zoning Districts and for Non-Residential Uses shall equally apply to all Residential Zoning Districts and to all Residential Uses.”

SECTION 15. Section 202 of the Cumru Township Zoning Ordinance of 2009 is hereby amended to redefine “Bed and Breakfast” as follows:

“Bed and Breakfast: The use and occupancy of a single-family detached dwelling for purpose of accommodating transient guests for compensation or rent for a stay not exceeding fourteen (14) days.”

SECTION 16. Section 713 (A) (13) of the Cumru Township Zoning Ordinance of 2009 is hereby amended to state, in its entirety, as follows:

“(13) The length of stay for any guest at a Bed and Breakfast establishment shall not exceed fourteen (14) days.”

SECTION 17. Section 602 (C) (1) of the Cumru Township Zoning Ordinance of 2009 is hereby amended to state, in its entirety, as follows:

“(1) All land uses permitted by Special Exception within the LC or HC Zoning Districts shall be permitted by Special Exception within the Adaptive Reuse and Redevelopment Overlay District, provided that such uses are located within either the LC or HC Zoning Districts. By Special

Exception, the Zoning Hearing Board may approve a combination of non-residential uses within one or more existing buildings, provided that such combination of uses are generally compatible with the existing land use characteristics of other properties located within 500 feet of the property at issue.”

SECTION 18. Section 202 of the Cumru Township Zoning Ordinance of 2009 is hereby amended to redefine “Municipal Use” as follows:

“Municipal Use: Any governmental use owned and maintained by a municipality, municipal authority or quasi-governmental entity, including recreational, utility, public safety and other traditional governmental uses.”

SECTION 19. Section 844.1 (A) of the Cumru Township Zoning Ordinance of 2009 is hereby amended to state, in its entirety, as follows:

“(A) Non-commercial recreational Uses, as further defined under Article 2 of this Ordinance, shall be permitted by right within the AG, RC, LC, MR, HR, LR, HC, MUGC and GI Zoning Districts, subject to the applicable provisions of this Ordinance.”

SECTION 20. Section 202 of the Cumru Township Zoning Ordinance of 2009 is hereby amended to redefine “Yard” as follows:

“Yard: An open space on a lot on which a structure is situate or structures are situate which lies between any structure and a lot line and on which no structure is situate.

Front Yard: A yard extending the full width of the lot between a structure and the front lot line. On lots abutting more than one public street, and, as a result, more than one front yard exists definitionally, the Township Zoning Officer shall designate one of the yards between a structure and a public street as the Front Yard.

Rear Yard: A yard extending the full width of the lot between a structure and the rear lot line.

Side Yard: A yard extending from the front yard to the rear yard between a structure and the nearest side lot line.”

SECTION 21. Section 910 (A) (3) of the Cumru Township Zoning Ordinance of 2009 is hereby amended to state, in its entirety, as follows:

(3) Unless otherwise specified in this Zoning Ordinance, all fences utilized for residential use located in a front yard shall not exceed a height of four (4) feet if such fence shall have a

minimum ratio of 1:1 of open spaces to structural areas. All fences utilized for residential use located in a front yard shall not exceed a height of three (3) feet if such fence does not have a minimum ratio of 1:1 of open spaces to structural areas.

SECTION 22. Section 1305(B)(4) of the Cumru Township Zoning Ordinance of 2009 is hereby amended to state, in its entirety, as follows:

“(4) The Zoning Hearing Board or Zoning Officer shall mail notice of the hearing to the owner of every lot within five hundred (500) feet of the lot or building that is the subject of the hearing. The applicant shall provide to the Zoning Officer a list of such properties within five hundred (500) feet of the property or building that is the subject of the hearing. Failure to give notice to any property owner to which notice is required to be delivered shall not invalidate any action by the Zoning Hearing Board.”

SECTION 23. The Zoning Officer, the Engineer and the Solicitor of the Township of Cumru are hereby authorized to take such actions as may be necessary to cause the Cumru Township Zoning Ordinance and the Zoning Map of the Township to be amended in accordance with the terms and provisions of this Ordinance and shall take such other actions as may be necessary to effectuate the terms of this Ordinance.

SECTION 24. All Ordinances or resolutions, or parts of ordinances or resolutions, in so far as they are inconsistent with this Ordinance are hereby repealed.

SECTION 25. The provisions of this Ordinance shall be severable and if any of its provisions shall be held to be unconstitutional or illegal, the validity of any other remaining provisions of the Ordinance shall not be effected thereby. It is hereby expressly declared as the intent of the Board of Commissioners that this Ordinance would have been adopted had such unconstitutional or illegal provision or provisions had not been included herein.

SECTION 26. This Ordinance shall become effective on the earliest date permitted by law after enactment.

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ENACTED AND ORDAINED as an Ordinance of the Township of Cumru, Berks County, Pennsylvania this ____ day of _____, 2021.

BOARD OF COMMISSIONERS OF
CUMRU TOWNSHIP

By: _____
President

By: _____
Vice President

By: _____
Member

By: _____
Member

By: _____
Member

Attest: _____
Secretary

EXHIBIT "A"
ZONING MAP