

Promoting Mixed Zoning Developments for a More Sustainable Community

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“Neighborhoods should be diverse in use and population; communities should be designed for the pedestrian and transit as well as the car; cities and towns should be shaped by physically defined and universally accessible public spaces and community institutions; urban places should be framed by architecture and landscape design that celebrate local history, climate, ecology, and building practice.”¹

I. Introduction

Mixed-use development is a method for tactically organizing physical space that is ideal for society to flourish and function.² Zoning was originally created to address the public health concerns during the time period when industrialization was transforming America.³ The commercial aspects of these properties were not only loud and smelly, but also were potentially hazardous to the public that resulted in compartmentalization of land uses to create a barrier between the public and the nuisances of the industries.⁴ Today, the mixing of different property uses in compact vicinities is more beneficial for a sustainable environment because commercial properties no longer have harmful and adverse effects on the public that they once had.⁵ In essence, these Euclidean zoning ordinances forbid the idea of mixed-use development.⁶ Generally, the primary goal of mixed-use development is to reverse the negative effects that Euclidean zoning and sprawl have taken on our communities.⁷

¹ *The Charter of the New Urbanism*, CONGRESS FOR NEW URBANISM (Sept. 25, 2016), <https://www.cnu.org/who-we-are/charter-new-urbanism>.

² Josh D. Herndon, *Mixed Use Development in Theory and Practice: Learning from Atlanta's Mixed Experiences*, 22 (2011), https://smartech.gatech.edu/bitstream/handle/1853/40790/JoshuaHerndon_Mixed-Use%20Development%20in%20Theory%20and%20Practice.pdf.

³ *Mixed Use Zoning: A Planners' Guide*, METROPOLITAN AREA PLANNING COUNCIL, 1, http://www.mapc.org/sites/default/files/Mixed_Use_Planners_Toolkit.pdf.

⁴ *Id.*

⁵ *Id.*

⁶ Herndon, *supra* note 2, at 6.

⁷ *Id.* at 22.

Part II sets forth the problems that can be resolved through the implementation of mixed-use development. The problems include the negative impacts of sprawl, Euclidean zoning, and suburban use development. Furthermore, Part II also provides the solution to these problems through the promotion of smart growth, New Urbanism, and placemaking. Because of these reasons, many municipalities are implementing mixed-use development in order to promote a more sustainable environment and a healthier quality of life.

Part III provides reasons as to why a revised ordinance is needed. The unique needs of each municipality is the main reason as to why revised ordinances are imperative per municipality. In addition, this section addresses the many social, environmental, and economic benefits for residents and businesses that a mixed-use development can provide.

Part IV visits other jurisdictions that have successfully implemented mixed-use development in order to obtain a healthier and more sustainable lifestyle. This section also portrays the different ways mixed-use development can be executed and the problems that can arise. On the smaller scale is Via Verde, which is a smaller community located in New York City. Seaside, Florida is an 80-acre beach town that displays a perfect example of the New Urbanism movement. Lastly, Atlantic Station, which is located in Atlanta, Georgia, is on the grandest scale with a 138-acre brownfield redevelopment.

Finally, Part V addresses the key policy issues with mixed-use zoning. Public approval is a big issue that needs to be handled before moving forward with developing a mixed-use community. In addition, the section next assesses the funding aspect of a mixed-use development. Finally, the section attacks the issues of improper planning that may occur at the outset of a mixed-use master plan.

II. Problems and the Solutions through Mixed-Use Development

A. The Issues of Sprawl, Euclidean Zoning, and Suburban Development

Sprawl is one of the primary problems that need to be addressed through mixed-use development.⁸ Sprawl is an array of low-density development and automobile dependence because of the devolution of human occupancy.⁹ Communities are requiring more dispersed land and space per person to provide homes, places of business, retail locations and recreation zones.¹⁰ This phenomenon occurs where population growth ensues outside of urban areas, but can also occur when there is population settlement outside of cities with little growth.¹¹ Disjointed local decision-making is a primary promotion of sprawl.¹² Not only does sprawl lead to expensive upkeep of roads, sewage systems, and other infrastructures, but it also increases traffic congestion and longer commutes from suburbs to cities.¹³ This traffic congestion leads to higher greenhouse gas emissions that are detrimental to the environment.¹⁴ Mixed use zoning developments result in people living in more connected and linked areas.¹⁵ The impact of mixed use affects the public immensely by giving the community greater economic mobility, lowering cost for housing and transportation, creating more transportation options, and increasing their quality of life.¹⁶

⁸ *Defining Sprawl and Smart Growth*, CORNELL UNIVERSITY COMMUNITY AND REGIONAL DEVELOPMENT INSTITUTE (Sept. 25, 2016), <https://cardi.cals.cornell.edu/focal-areas/land-use/sprawl/definition>.

⁹ John C. Dernbach, *AN AGENDA FOR SUSTAINABLE COMMUNITIES*, 4 ENV'T'L & ENERGY L. & POL'Y J. 170, 176 (2009).

¹⁰ *Defining Sprawl and Smart Growth*, *supra* note 8.

¹¹ *Id.*

¹² Dernbach, *supra* note 9, at 176.

¹³ Heather Nicholson, *Smart Growth and New Urbanism: The Implementation of Development Plans Eight Years after Hurricane Katrina on the Mississippi Gulf Coast*, THE UNIVERSITY OF SOUTHERN MISSISSIPPI, 15 (2014).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Reid Ewing & Shima Hamidi, *Measuring Sprawl 2014*, SMART GROWTH AMERICA, 14 (2014), <https://www.smartgrowthamerica.org/app/legacy/documents/measuring-sprawl-2014.pdf>

Euclidean zoning not only promotes sprawl but also takes a toll on mixed-use development by mandating single-use development.¹⁷ Originally, Euclidean zoning was created to promote public health and safety.¹⁸ It did this by creating a barrier between residential and commercial uses.¹⁹ However, this single-use zoning transformed our green spaces into a segregated sprawl inducing, auto-dependent society.²⁰ The ordinances that promote Euclidean zoning prevent the creation and renovation of neighborhoods, towns and cities from being functional and sustainable.²¹ Instead of treating zoning as a protection for suburban residents it should be used to create a positive and functional environment for the community as a whole.²²

However, Euclidean zoning cannot be entirely blamed for creating sprawl.²³ Early 20th century factors and post World War II policies and events increased sprawl as well and influenced the current land development practices.²⁴ During the industrialization period, Americans became increasingly wealthy.²⁵ The increased wealth of the American people resulted in an increased desire for a larger house or an automobile.²⁶ Through technological innovations, manufacturing was made cheaper and more affordable to the common citizen and the same technological innovations provided for the mass production of tract housing.²⁷ In addition, the

¹⁷ Jason T. Burdette, *Form-Based Codes: A Cure for the Cancer Called Euclidean Zoning?*, VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY, 2 (2004).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 11.

²² *Id.* at 14.

²³ *Id.* at 17.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

1947 Interstate Highway Act assisted the “white flight” from urban areas.²⁸ The new highways made suburban areas easier to reach and offered an escape from the grit and crime of urban life.²⁹

Euclidean zoning in it of itself discriminates because of its exclusionary nature.³⁰ The separation of land uses provides one of the fundamental foundations for zoning.³¹ Since the 1920’s, communities have used zoning to exclude certain types of housing, activities, and races.³² Therefore, Euclidean zoning provides a method of social and economic exclusion.³³

Overall, the implementation of zoning use requirements will dictate what and whom will locate where.³⁴ This is most often seen through suburban land development.³⁵ Suburban zoning regulations seek to exclude certain populations from neighborhoods and their community.³⁶ Wealthier people are primarily directed towards the suburbs, whereas; the poor are directed toward the cities resulting in a *de facto* type of racial discrimination.³⁷ This capital-based exclusion falls greatly on African Americans.³⁸ Although Euclidean zoning was meant to prevent the mixing of incompatible uses for the public good, its underlying objectives remain a popular tool for wealthier communities to exclude unwanted activities and people.³⁹

Mixed-use development can address the aforementioned problems that society endures. Reducing sprawl by eliminating low-density development and automobile dependence can increase the functionality of a community overall. By breaking through the barrier of Euclidean

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at 18.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.* at 19.

zoning, mixed-use development can smoothly be initiated without burdensome obstacles such as single-use districts. Lastly, suburban zoning regulations can be expanded to include multiple uses, which in turn will eradicate the discriminatory exclusion from neighborhoods. Solutions can be achieved through the uses of smart growth, new urbanism, and placemaking.

B. Mixed-Use that Promotes Smart Growth, New Urbanism, and Placemaking

Smart growth is an attractive, convenient, safe, and healthy solution that crafts new neighborhoods or renovates existing ones.⁴⁰ According to Smart Growth America, “[s]mart growth is an approach to development that encourages a mix of building types and uses, diverse housing and transportation options, development within existing neighborhoods, and community engagement.”⁴¹ The foundation of the smart growth approach includes ten principles.⁴² The first is mix land uses, which is intended to have homes, shops, offices, schools, parks, and restaurants located in the same vicinity.⁴³ The plethora of uses can be located on the same block or even in the same building, which makes everyday life more convenient while preserving green spaces.⁴⁴ This mixing of land uses brings life into a neighborhood at all hours of the day, which not only bolsters the businesses, but also increases the safety of the community.⁴⁵ Furthermore, the close vicinity decreases auto-dependence and encourages walking and biking because people live closer to where they work.⁴⁶ In addition, offering transportation options decreases gas emissions

⁴⁰ *This is Smart Growth*, SMART GROWTH NETWORK, 1 (2014), <https://www.epa.gov/sites/production/files/2014-04/documents/this-is-smart-growth.pdf>.

⁴¹ *What is Smart Growth?*, SMART GROWTH AMERICA, <https://smartgrowthamerica.org/our-vision/what-is-smart-growth/>.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

from vehicles and controls traffic congestion.⁴⁷ All of these benefits lead to a healthier and more efficient lifestyle, which in turn is very attractive to society.⁴⁸

According to the Congress for the New Urbanism (CNU), “New Urbanism is about creating sustainable, human-scaled places where people can live healthy and happy lives.”⁴⁹ New Urbanism is a great way to combat sprawl through an environmentally efficient design of neighborhoods.⁵⁰ New Urbanists fight for the return of human-scale neighborhoods by pushing to reform zoning and street design, while creating a community that is a five-minute walk from center to edge.⁵¹ Placemaking and public interaction are of primary importance when creating a mixed-use community.⁵² The streets are specially designed for people, encouraging them to walk, bike, and use public transit, while sidewalks, courtyards, and cafes are strategically placed to promote public interaction.⁵³ A New Urbanist mixed-use community is created through a holistic approach with a combination of architecture and open spaces.⁵⁴ Every detail in the design has a purpose in relation to the function of the community.⁵⁵ This approach also transforms neglected housing and places into functional multi-use districts that have character embedded into an urban design.⁵⁶

⁴⁷ *This is Smart Growth*, *supra* note 40, at 14.

⁴⁸ *Id.*

⁴⁹ *What is New Urbanism?*, CONGRESS FOR NEW URBANISM (Sept. 25, 2016), <https://www.cnu.org/resources/what-new-urbanism>.

⁵⁰ Nicholson, *supra* note 13, at 17.

⁵¹ *What is New Urbanism?*, *supra* note 49.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

“Placemaking is the process of creating quality places that people want to live, work, play and learn in.”⁵⁷ Placemaking is the means to the end and the end is the creation of quality places.⁵⁸ Quality places are places with strong sense of place that people desire to be in.⁵⁹ These places stimulate people’s subconscious through capturing unique locations, art, and activities in one single vicinity, while being safe and people friendly at the same time.⁶⁰ In order to create communities with a strong sense of place, mixed-use development is crucial.⁶¹ A sense of place lures visitors in over and over again because of the unique experience that the community provides.⁶²

III. Why a Revised Ordinance is Needed

Permission and regulation of mixed-use development is feasible through the use of municipal zoning ordinances.⁶³ A revised ordinance is necessary in every municipality because the mixed-use zoning aspect is exclusive to the community layout and the goals that the municipality is trying to accomplish.⁶⁴ The municipality must first come to the decision as to where the mixed-use zone will be permitted and then determine whether they need to draft or amend existing ordinances in order to advance their desired usage.⁶⁵ The specifics of the

⁵⁷ Mark A. Wyckoff, *DEFINITION OF PLACEMAKING: Four Different Types*, MICHIGAN STATE UNIVERSITY LAND POLICY INSTITUTE, 2, <http://www.miplace.org/sites/default/files/FOUR%20TYPES%20OF%20PLACEMAKING2.pdf>.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Mixed-use Development and Ordinances*, CHESTER COUNTY PLANNING COMMISSION, (2009), <http://www.landscapes2.org/ToolsLandscape/Pages/MixedUse.cfm>.

⁶² Herndon, *supra* note 2, at 74.

⁶³ *Mixed-use Development and Ordinances*, *supra* note 61.

⁶⁴ *Id.*

⁶⁵ *Id.*

ordinance must divulge the desired type of mixed-use that the municipality is seeking.⁶⁶ For example, whether the mixed-use development is geared toward renovating an existing building into multi-use zones or it is directed toward the creation of a new multi-use community, must be embedded in the details of the ordinance.⁶⁷ In addition, the mixed-use ordinance must include communal amenities and public infrastructure such as community parking and sewage systems that have cost effective and environmentally friendly motivations.⁶⁸ Mixed-use development projects that are on a larger scale may require public and private partnerships in order to assess issues that are outside the mixed-use property, such as roadway improvements.⁶⁹ Issues such as these, require an initial feasibility analysis to make sure the project can commence without interruption.⁷⁰

Proposing a mixed-use zoning ordinance has many social, environmental, and economic benefits for residents and businesses in a municipality.⁷¹ The social benefit is the sense of place that it creates for the residents of the community.⁷² A quality place, such as a mixed-use development, increases the public interaction, which in turn makes the community a safer place to live.⁷³ The environmental benefit that is associated with mixed-use zoning is energy conservation through the implementation of efficient land use.⁷⁴ In addition, a mixed-use development would decrease the automobile dependence due to the walkability and transit

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

options of the compact community, which in turn would decrease gas emissions from vehicles.⁷⁵ This means the ordinance needs to address and create paths and promenades that are as convenient and comfortable as possible.⁷⁶ For a truly walkable community and a bikeable environment, adjoining properties should be designed to connect effortlessly.⁷⁷ The economic benefit that stems from mixed-use developments is the increase in population within a compact location due to convenience.⁷⁸ In turn, the walkability to local business within the development can create a booming economy for the businesses.⁷⁹ Therefore, by adding commercial to a residential development offers the prospect of elevated sales and property taxes.⁸⁰

IV. How Problems have been Addressed in Other Jurisdictions

Communities that are “going green” through mixed-use development are very attractive to society. The convenience of having housing, shops, offices, and schools in one safe and compact vicinity, which promotes walkability, is appealing. Seaside, Florida is an example of the first New Urbanist beach town, while Via Verde is a sustainable apartment complex in New York City. On the grandest scale is Atlantic Station in Atlanta, Georgia that turned a lead-contaminated wasteland into a popular urban community.

⁷⁵ *Id.*

⁷⁶ *Mixed Use Development Delivers Great Benefits*, USEFUL COMMUNITY DEVELOPMENT (Sept. 25, 2016), <http://www.useful-community-development.org/mixed-use-development.html>.

⁷⁷ *Id.*

⁷⁸ *Mixed-use Development and Ordinances*, *supra* note 57.

⁷⁹ *Id.*

⁸⁰ *Mixed Use Development Delivers Great Benefits*, *supra* note 76.

A. Seaside, Florida

Seaside, Florida is the first 80-acre New Urbanist town that revolutionized the mixed-use community.⁸¹ Founder Robert Davis wanted to create a utopian urban atmosphere for people that were bored of the suburbs.⁸² In addition the aim was to create a better quality of life while battling suburban sprawl.⁸³ It includes 300 bungalow-style homes, 12 restaurants and eateries and 41 shops and galleries.⁸⁴ It has the live, work, and play feel with everything in walking distance, which eliminates auto-dependence.⁸⁵ The streets are designed with pedestrian alleys and many open spaces throughout Seaside.⁸⁶ There are tennis courts, a community pool, an amphitheater, and a charter school.⁸⁷ However, the issue of high housing prices occurred in Seaside because of the desirability to live in the quaint town.⁸⁸ Because Seaside became so desirable the original idea of diverse housing prices failed.⁸⁹ Despite the expensive housing prices, Seaside is still known for becoming the first New Urbanism town.⁹⁰

⁸¹ *THE SUBURBAN REVOLUTION: THE TOWN THAT CHANGED AMERICA TURNS 30 Seaside Florida the First New Urbanist Community, Credited with Inspiring Mixed Use Development across the U.S.*, SEASIDE, (2012), <http://www.seasidefl.com/in-the-media/2012/06/the-suburban-revolution-the-town-that-changed-america-turns-30-seaside-florida-the-first-new-urbanist-community-credited-with-inspiring-mixed-use-development-across-the-u-s/>.

⁸² Jennifer Parker, *SEASIDE, ABOUT THE COMMUNITY AND THE BUILDING OF THE SEASIDE RESEARCH PORTAL*, THE SEASIDE RESEARCH PORTAL ARCHIVING THE FIRST NEW URBAN COMMUNITY, <https://seaside.library.nd.edu/essays/the-community-and-building-the-portal>.

⁸³ *Id.*

⁸⁴ *THE SUBURBAN REVOLUTION*, *supra* note 81.

⁸⁵ *Id.*

⁸⁶ Nicholson, *supra* note 13, at 17.

⁸⁷ *Id.*

⁸⁸ *Id.* at 18.

⁸⁹ *Id.* at 37.

⁹⁰ *Id.*

B. Via Verde

On a smaller scale, Via Verde is a 98.8 million dollar mixed-use residential development in New York City that is a successful attempt to give life to the Bronx.⁹¹ In the 1960s and 70s the area was scattered with blighted areas with an unfortunate high crime rate.⁹² Now, it is an incredible urban development that provides a healthy living for 400 residents within 1.5 acres.⁹³

The main focus was to create a sustainable design while providing affordable housing for all income levels with health promoting amenities.⁹⁴ There are 222 residential units, 7,500 square feet of retail space, and 40,000 square feet of open space for residents.⁹⁵ The secondary focus was to battle health issues of obesity and asthma by offering state of the art health amenities.⁹⁶ The health promoting amenities include space for outdoor activity, an indoor fitness center, a rooftop vegetable garden, and a medical and pharmacy center on the first floor.⁹⁷

The sustainability and healthy living components to Via Verde are remarkable.⁹⁸ The green roofs are signature to Via Verde in which they dissipate heat and absorb rainwater.⁹⁹ The roof gardens encompass evergreen trees on the third floor, fruit trees on the fourth, and vegetable gardens on the fifth.¹⁰⁰ The seventh floor has an outdoor fitness facility with open spaces for social events and fitness classes.¹⁰¹

⁹¹ *ULI Case Studies Via Verde*, URBAN LAND INSTITUTE, <http://casestudies.uli.org/via-verde/>.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

This single building is extremely energy efficient, which in turn is cost efficient.¹⁰² The stairwells have windows that provide natural light while parts of the development include lighting initiated by motion sensors for energy conservation.¹⁰³ In addition, solar panels provide the electricity for the common areas.¹⁰⁴ Remarkably, it is more than thirty percent more energy efficient than any standard building.¹⁰⁵ Some of the building materials were made of recycled materials while most of the construction waste was recycled.¹⁰⁶

Walkability eliminates auto-dependence.¹⁰⁷ Via Verde is located within easy walking distances of businesses and transit systems that meet an average person's daily needs.¹⁰⁸ Walking to the grocery store or to the nearest subway is just minutes away. In addition, there is a public school within the block.¹⁰⁹

C. Atlantic Station

Atlantic Station in Atlanta, Georgia is one of the largest brownfield redevelopments in U.S. history.¹¹⁰ This former steel mill was a lead contaminated 138-acre desolate property that was transformed into a 2 billion dollar mixed-use redevelopment.¹¹¹ This community was Atlanta's way of battling sprawl through smart growth principles.¹¹² This project was designed to

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ Herndon, *supra* note 2, at 73.

¹¹¹ *Id.* at 67.

¹¹² *Id.*

be pedestrian and transit-friendly with a live, work, and play environment.¹¹³ In addition, energy conservation is another aim that the community had in mind, considering many of the buildings are certified in Leadership in Energy and Environmental Design (LEED).¹¹⁴ Atlantic Station is separated into three districts: The District, The Commons, and The Village.¹¹⁵ Among the three districts there is 6,000 square feet of office space, 3,000-5,000 residential units, two million square feet of retail/entertainment space, 1,000 hotel rooms and 11 acres of public parks.¹¹⁶

The development of this mixed-use community also had its challenges.¹¹⁷ Because the property was formerly a steel mill, the ground water was severely contaminated with lead and had to be fixed before the building could take place.¹¹⁸ Twenty thousand truckloads of contaminated soil and 164,000 cubic yards of granite had to be dug up and removed from the property in order to decontaminate and level out the land for building.¹¹⁹ The next problem that the team had to deal with was the separation from the community to the surrounding neighborhoods.¹²⁰ This community has instigated the building of the 17th Street Bridge that is pedestrian and transit-friendly and connects Atlantic Station to the surrounding neighborhoods.¹²¹ The final issue that they endured was getting the rest of the city and region to accept the idea of this new mixed-use community.¹²² They had a number of public hearings and discussions with community groups to get approval.¹²³

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.* at 68.

¹¹⁷ *Id.* at 70.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.* at 71.

¹²¹ *Id.* at 67.

¹²² *Id.* at 71.

¹²³ *Id.*

An opportunity that the development team failed to address was creating a unique sense of place in the community.¹²⁴ Rather than giving the town a unique urban neighborhood feel it created an airy open mall type of vibe.¹²⁵ The architecture is repetitious and lacks character due to the absence of a more efficient planning at the commencement of the development¹²⁶ Another issue is the nightclubs that operate within the community that create a negative impact on the safety of the community at night.¹²⁷

Overall, the project implemented smart growth principles in order to reduce auto-dependence and air emissions while conserving open green space.¹²⁸ Furthermore, there was an incredible decrease in stormwater runoff along with new sewer systems that created positive environmental influence by reducing pollutants in the regions river.¹²⁹ Despite the few mistakes, Atlantic Station is the epitome of a mixed-use development success story.

The goals set out in a master plan for a mixed-use development may not always be met. For example, Seaside failed at creating a diverse income community because of the high desirability to reside there. On the other hand, Atlantic Station failed to create the sense of place that Seaside clearly possessed. Despite these minor downfalls, the promotion of a sustainable environment along with the goal of creating a better quality of life is what mixed-use developments can provide to any given community.

¹²⁴ *Id.* at 74.

¹²⁵ *Id.*

¹²⁶ *Id.* at 75.

¹²⁷ *Id.*

¹²⁸ *Id.* at 73.

¹²⁹ *Id.*

V. Key Policy Issues

The main policy issue that developers of mixed use zoning areas will face is the receptiveness of the community.¹³⁰ A community fear about mixing is one of the most significant challenges that planners will face.¹³¹ A common example of this is when residents feel that new development will only end up making their neighborhood unaffordable.¹³² Additionally the public had made an emotional attachment with their suburbs.¹³³ People are comfortable being separated and segregated from urban life and these attachments to suburbs and consequent beliefs, such as their perceived safety, can create a barrier to smart growth and new urbanism.¹³⁴ Although not everyone in the community will agree that all their problems will be solved by implementing mixed use development, with the help and support of local government, developers and other residents this fear can be overcome.¹³⁵

Another key issue with mixed-use development is funding.¹³⁶ When tax dollars are invested in growth and development, the public creates certain expectations.¹³⁷ They expect that their lives and the community as a whole will improve and want the most out of their investments.¹³⁸ Planners and developers of mixed-use projects must keep this in mind by using their “current resources wisely, building where it makes sense to build, and not duplicating or

¹³⁰ Jill Grant, *Encouraging mixed use in practice*, NATIONAL CENTER FOR SMART GROWTH RESEARCH AND EDUCATION, 11 (2004).

¹³¹ *Id.*

¹³² *This Is Smart Growth*, *supra* note 44, at 21.

¹³³ *Id.*

¹³⁴ Nicholson, *supra* note 13.

¹³⁵ Grant, *supra* note 130.

¹³⁶ *Id.* at 8.

¹³⁷ *Id.*

¹³⁸ *Id.*

undermining previous expenditures.”¹³⁹ Studies have been completed and evidence shows that more compact development makes the tax dollars increase because it reduces the cost of providing services and infrastructure.¹⁴⁰

Moreover, it is the responsibility of the state and municipal governments to direct public and private investments into areas that it believes needs the growth or revitalization.¹⁴¹ Public investments in communities need to be based on sensible and long-term goals.¹⁴² The two goals can be accomplished through the balancing of community resources between what is already in place and the new development.¹⁴³ Utilizing this balance, along with thoughtful public investments based on smart growth principles can accomplish both of those goals.¹⁴⁴

A third issue that can arise through mixed-use development is seen through improper planning.¹⁴⁵ Improperly planned development results in not enough residential buildings, increasing the issue of sprawl within communities.¹⁴⁶ A well-designed and planned mixed-use development also lends itself to placemaking, creating a real sense of place specific to the community, which results in relieving some of the aforementioned community fears.¹⁴⁷ Moreover, encompassing the idea of new urbanism, every detail has a function that works holistically within the community.¹⁴⁸ Without proper planning, the community will not function correctly or comprehensively.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.* at 9.

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ Nicolas M. Kublicki, *Innovative Solutions to Euclidean Sprawl*, 31 ELR 11001, 11001 (2001).

¹⁴⁶ *Id.*

¹⁴⁷ *Mixed Use Development Delivers Great Benefits*, *supra* note 76.

¹⁴⁸ *What is New Urbanism?*, *supra* note 49.

To create a properly planned mixed-use development, municipalities will either permit special mixed-use zoning districts (MXD), or a zoning overlay district.¹⁴⁹ Others will apply existing planned developments, planned unit development (PUD), or planned community designation.¹⁵⁰ Additionally, the municipality must think about the specifics of the development such as vertical or horizontal developments.¹⁵¹ Vertical developments are “uses that vary from one floor to another in a building.”¹⁵² An advantage of vertical mixing is it allows for greater intensity of land use in desirable locations including: downtowns, activity centers, transit stations, universities, or major employers.¹⁵³ Horizontal developments mean “side-by-side storefront bays in the same building, which include office and retail.”¹⁵⁴ It might mean a complex of buildings in which each building may include only one use.¹⁵⁵ For example, a typical block of condo buildings might end with a small storefront.¹⁵⁶ This could also mean “whole residential blocks that might be interspersed with commercial or office development.”¹⁵⁷

Addressing policy concerns is an important aspect of mixed-use development. Receptiveness of the community can be achieved through educating the public about the positive effects such as a healthy living and a sustainable environment that mixed-use has to offer. Funding is a key issue that must be addressed at the outset of the project. Improper planning is a policy issue that needs to be assessed in the master plan of the development. Once these policy

¹⁴⁹ *Mixed Use Development Delivers Great Benefits*, *supra* note 76.

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

concerns are resolved, moving forward with a mixed-use development project will be virtually uninterrupted.

VI. Conclusion

Mixed-use development has many benefits for not only society's quality of life, but also for the sustainability of the environment. Once municipalities can overcome the obstacle of single-use Euclidean zoning they can battle sprawl's devolution of human occupancy that creates negative effects such as low-density suburban development and vehicle dependence.

In addition, mixed-use is one of the ten principles that creates the foundation of smart growth by creating convenience of homes, shops, offices, schools, parks, restaurants and public transit within a compact vicinity. By creating this convenience, mixed-use promotes walkability and decreases vehicle dependence. Furthermore, New Urbanism promotes the efficient design of neighborhoods through the use of architecture and open spaces to decrease sprawl and to promote healthy living. While implementing smart growth and New Urbanism, placemaking is an important aspect of to keep in mind while creating the master plan in a mixed-use development. It is important to create quality places that encompass architectural character in order to make visitors want to come back or even stay forever.

However, the master plan of a mixed-use development cannot be crafted without the correct municipal zoning ordinances in place. Revised or amended ordinances are exclusive to every community depending on the zoning laws that are already in place.

Other jurisdictions have implemented incredibly successful mixed-use developments. Seaside, Florida created an expensive beach bungalow-styled utopia scattered with mixed-use. Via Verde promotes healthy living and battles obesity with their community of apartments,

fitness centers and rooftop gardens. Atlantic Station turned a lead-polluted wasteland into a 2 billion dollar mixed-use community with a bridge that connects it to the surrounding neighborhoods. Whether the development is a small one-building community such as Via-Verde or a large-scale brownfield redevelopment like Atlantic Station, these places exemplify the practicality and diversity of mixed-use developments.

The key policy issues to be aware of include public receptiveness, funding, and improper planning. Getting the community on board to promote a mixed-use community may be the most difficult task. Attempting to change the minds of a community to move from suburban to an urban style of living may take some educating through public hearings and town hall meetings. Funding a mixed-use development is extremely pricey. However, with public and private partnerships the feasibility is possible. Improper planning can be battled through making sure the master plan is realistic with a design that efficient and functional for an ideal human lifestyle.

Ultimately, the goal of mixed-use development is to create a healthy lifestyle for society while promoting sustainability practices for the environment. If more municipalities move toward a promoting properly planned mixed-use developments, their communities as a whole will be nothing but prosperous.

Jocelyn Schultz and Jordan Mazzone

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF _____, PENNSYLVANIA, FOR THE ZONING OF MIXED-USE DEVELOPMENTS PURSUANT TO MUNICIPALITY DEVELOPMENT PLANS.

Now, THEREFORE, Be it enacted and ordained by the _____ Municipality _____, _____ County, Pennsylvania and it is hereby enacted and ordained with the authority of same as follows:

SECTION 1. Short title. This ordinance shall be known and may be cited as the Mixed-Use Zoning Ordinance of _____ Municipality, _____ County, Pennsylvania.

SECTION 2. Purpose and intent.¹⁵⁸

(a) Purpose.--A mixed-use development is established to encourage the following:¹⁵⁹

(1) Smart-growth planning and development.

(2) The creation of planned small communities where citizens may live, work, and enjoy recreation without dependence on automobiles.

(b) Intent.--The following purposes shall be considered in the planning of a mixed-use development:¹⁶⁰

¹⁵⁸ Powder Springs, Georgia, Municipal Code § 7.12.01

¹⁵⁹ *Id.*

¹⁶⁰ Powder Springs, Georgia, Municipal Code § 7.12.01

(1) Combine residential, commercial and recreational elements in order to create a livable, more desirable environment for the residents of the municipality.

(2) Help reduce problems associated with sprawl, auto-dependence and single-use development.

SECTION 3. Definitions.--The following words and phrases when used in this ordinance shall have the meaning given to them in this section unless the context clearly indicates otherwise:

"Awning." Means a secondary covering attached to the exterior wall of a building.¹⁶¹

"Blank wall." Means an exterior building wall with no openings and generally constructed of a single material, uniform texture and on a single plane.¹⁶²

"Block." Means a unit of land bounded by streets or by a combination of streets and public land, railroad right of way, waterways, or another barrier to the continuity of development.¹⁶³

"Buffer." Means an area of land, together with a specified type and amount of plantings, walls, berms or fences thereon, located between different land uses to minimize potential conflicts between them.¹⁶⁴

¹⁶¹ Hazleton, Pennsylvania, Municipal Code § 2011-12

¹⁶² Hampden Township, Cumberland County, Municipal Code § 16-A

¹⁶³ Model Ordinance for Traditional Neighborhood Development § 2.6

¹⁶⁴ Mechanicsburg, Pennsylvania, Municipal Code § 27-303

"Collector." Means a low-to-moderate-capacity road which serves to move traffic from local streets to arterial roads.

"Cornice." Means the top part of an entablature, usually molded and projecting.¹⁶⁵

"Development." Means a man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, filling, grading, paving, excavation, mining, dredging or drilling operations and the subdivision of land or land development.¹⁶⁶

"Gable." Means the part of the end wall of a building between the eaves and a pitched or gambrel roof.¹⁶⁷

"Governing body." Means [Municipality Governing Body].

"Façade." Means the front exterior of a building, typically facing the primary street unless otherwise noted as a side or rear facade.¹⁶⁸

"Lot." Means a parcel of land occupied or intended for occupancy by a use permitted in this ordinance, including one main building, together with any accessory buildings, open spaces and parking spaces required by this ordinance and having its principal frontage upon a street or upon an officially approved place.¹⁶⁹

¹⁶⁵ Hampden Township, Cumberland County, Municipal Code § 16-A

¹⁶⁶ Mechanicsburg, Pennsylvania, Municipal Code § 27-303

¹⁶⁷ *Id.*

¹⁶⁸ Hazleton, Pennsylvania, Municipal Code § 2011-12

¹⁶⁹ Model Ordinance for Traditional Neighborhood Development § 2.13

"Master plan." Means a comprehensive vision for mixed use development, which encourages a mix of compatible uses, including upgrading existing buildings, preserving and adapting reuse of historic buildings, and the introduction of new, compatible mixed-use buildings.

"Massing." Means the three-dimensional bulk of a structure: height, width and depth.¹⁷⁰

"Mixed use building." Means a building that contains at least one floor devoted to nonresidential uses and at least one devoted to allowed residential uses.¹⁷¹

"Mixed use development." Means the development of a tract of land or building with a variety of complementary and integrated uses as permitted by the applicable zoning district.

"Open space." Means a square, green, neighborhood park, [township/borough] park and linear environmental corridor owned and maintained by the [township/borough].¹⁷²

"Principal building." Means a building in which the primary use of the lot on which the building is located is conducted.¹⁷³

"Principal use." Means the primary or predominant use of a lot.¹⁷⁴

¹⁷⁰ Hampden Township, Cumberland County, Municipal Code § 16-A

¹⁷¹ *Model Smart Land Development Regulations*, Interim PAS Report American Planning Association (March 2006) § 4.1 Model Mixed-Use Zoning District Ordinance

¹⁷² Model Ordinance for Traditional Neighborhood Development § 2.11

¹⁷³ Model Ordinance for Traditional Neighborhood Development § 2.17

“Streetscaping.” Means the appearance or view of a street including decorative lights, sidewalks, trashcans, ornamental verges, street furniture and other elements.¹⁷⁵

“Transit stop.” Means a stop made by a vehicle, including a train or bus on the way to its final destination.

SECTION 3. Applicability.¹⁷⁶

This ordinance shall apply within the [township/borough] of _____ County, Pennsylvania, pursuant to the [township/borough’s] development plan codified by existing zoning ordinance or by special ordinance and describes a general mixed use section where the zoning district applies. It provides locational criteria for zoning district map changes and shall not affect any of the provisions of the [township/borough zoning ordinance] as they apply to the [township/borough] as a whole.

After a master plan is duly filed, approved and recorded under the provisions of this Section, the land area included in the master plan shall be governed by conditions of this ordinance, including those ordinances, in whole or in part, which are incorporated herein by reference.¹⁷⁷

SECTION 4. Permitted and prohibited uses and general mix use development requirements.

¹⁷⁴ Mechanicsburg, Pennsylvania, Municipal Code § 27-303

¹⁷⁵ New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

¹⁷⁶Atlanta Regional Commission, Mixed-Use Development, Model Ordinance (The section should be refined based on local characteristics and planning objectives.)

¹⁷⁷ Carlisle, Pennsylvania, Municipal Code § 255-119

(a) Permitted uses.--A lot or building may be used for one or more of the following by-right permitted uses:¹⁷⁸

(1) Office, entertainment, institutional and related use, which includes the following:

(i) A professional, administrative and business office.

(ii) A financial institution, excluding a drive-through facility.

(iii) A hotel, bed and breakfast facility, convention center, meeting space and banquet facility.

(iv) A gallery and museum.

(v) A theater.

(vi) A government administrative use, post office, community center and library.

(2) Retail, restaurant, and related use, including any of the following:

(i) A Retail commercial sale, excluding a drive-through facility.

(ii) A personal service business.

(iii) A Restaurant and other food or beverage establishment, excluding a drive-through facility.

(iv) A studio.

(v) An indoor sport facility.

¹⁷⁸ New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

(3) An apartment unit, provided the dwelling unit is located on second floor and above.

(4) A park, open space use, and plaza.

(5) Structured parking.

(6) An accessory use to a principal use, including a surface parking lot.

(b) Prohibited uses.--The following uses, including a use not specially permitted, are prohibited:¹⁷⁹

(1) A drive-through window or facility.

(2) An automobile or other vehicle sale, service, or repair facility.

(3) A gasoline service station or filling station.

(4) A self-service storage facility.

(5) An adult entertainment facility.

(6) A kennel and outdoor keeping of an animal.

(c) Mix use development requirements.--A mixed use development shall meet the following requirements:¹⁸⁰

(1) Usable open space and plaza use shall comprise at least [5] percent of the net tract area of all mixed use developments.

(2) All properties proposed for mixed use development shall be developed in accordance with a master plan by a

¹⁷⁹ New Freedom Borough, York County, Pennsylvania Ordinance No. 2012 § 437

¹⁸⁰ New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

governing board that has been approved by the municipal governing body.

(d) Governing board.--A governing board must be created for a mixed use development and shall meet the following requirements:

(1) Board members shall be chosen by the municipal governing body.

(2) Consist of a group of [5] persons, including a developer, architect and contractor.

(e) Master plan.--A mixed use master plan must be created for all proposed mixed use developments by a governing board and shall meet the following requirements:¹⁸¹

(1) Must be prepared when a property, existing at the time of adoption of this ordinance, is initially proposed for subdivision or land development and for subdivided properties that are intended to be developed at a later date.

(2) Meet the tentative sketch plan requirements set out by the board in the master plan.

(3) Show a proposed building, land use, lot, street and open space for the entire tract and shall be consistent with the municipal [Subdivision and Land Development Ordinance] and mix requirements of Section 4(c).

¹⁸¹ New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

(f) The municipal governing body may require changes in the master plan in order to comply with other ordinances or zoning requirements.

(g) Development of property may be done in phases but a proposed subdivision or land development of property or portion of property must be consistent with the master plan.

(h) If the proposed mixed use development is not consistent with the master plan, the master plan must be revised and shall meet the following requirements:

(1) The master plan shall comply with all [Township/Borough] requirements, including the mix requirements of Section 4(c).

(2) All owners of land within the original master plan approve the revisions that affect their properties.

(3) The revised master plan is approved by the municipal governing body.

(i) Other master plan requirements.--An applicant submitting a preliminary and final plan shall also submit an architectural drawing, including all of the following:¹⁸²

- (1) Elevations.
- (2) Perspective drawings.
- (3) Axonometrics.

¹⁸² New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

(4) Cross-sections, that demonstrate compliance with the standards in the [township/borough].

(j) Utilities.--A development in the [Township/Borough] shall be served by a public sewer and a public water facility.¹⁸³

(k) Unified ownership and management.--

(1) A mixed use development shall provide a unified and coordinated theme, with respect to all of the following:¹⁸⁴

(1) Streets, access drives, parking and pedestrian ways;

(2) Pedestrian oriented spaces.

(3) Architectural spaces.

(4) Landscape design.

(5) Lighting fixtures.

(6) Signage.

(2) A mixed use development shall be under a single management and control agreement and in accordance with the master plan.¹⁸⁵

(1) Off street parking shall be provided in accordance with chapter [].¹⁸⁶

(m) Signs shall meet the requirements of chapter [].¹⁸⁷

¹⁸³ *Id.*

¹⁸⁴ New Freedom Borough, York County, Pennsylvania Ordinance No. 2012 § 437

¹⁸⁵ New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

(n) Landscaping, street trees, streetscaping and buffers shall be provided in accordance with section [] of the [Subdivision and Land Development Ordinance].¹⁸⁸

SECTION 5. Dimensional requirements.--All lots within the [Township/Borough] shall meet the following dimensional requirements: ¹⁸⁹

(a) Lot area requirements.--¹⁹⁰

(1) An apartment and non-residential use net lot area shall be consistent with the master plan.

(2) Minimum net lot area for a townhouse and twin shall be [] square feet.

(3) Minimum net lot area for a single-family detached home shall be [] square feet.

(b) Lot width requirements.--¹⁹¹

(1) An apartment and non-residential use net lot width shall be consistent with the master plan.

(2) Minimum lot width for a townhome and twin shall be [] feet.

(3) Minimum lot width for a single-family detached home shall be [] feet.

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

SECTION 6. Design standards and general land use. ¹⁹² --All development within the [Township/Borough] shall comply with the design standards in this section and with the master plan: ¹⁹³

(a) The general layout and street pattern requirements shall be shown on the master plan.

(b) Various land uses must be laid out and spaced to make walking from one land use to another land use as easy as possible.

SECTION 7.1. Retail and residential use design.--

(a) A retail use shall be located as physically close to as many of the following on and off-site features as possible:

(1) An existing retail area.

(2) A transit stop.

(3) An existing collector or higher classification street.

(4) A proposed plaza area.

(b) A Single-use residential building, when proposed, must be located and designed to provide a transition between abutting off-site residential zoning districts, when they exist, and the nonresidential uses in the [Township/Borough].

SECTION 7.2. Street and block design.--

¹⁹² New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

¹⁹³ *Id.*

(a) Street design.--A [Township/Borough] development shall be laid out with streets, in accordance with the following standards:

(1) A street shall be laid out to create sidewalk blocks.

(2) A proposed building, excluding a parking garage, shall be located within a certain distance of a street.

(3) A street shall be interconnected with each other and with streets on abutting properties in a grid or modified grid pattern.

(4) A street shall be extended to an abutting property in a logical location, as determined by the municipal governing body.

(5) A new street shall have a street connectivity index of [1.40] or more.

(b) Block design.--A block shall include a public pedestrian connection through the block between a parallel street, unless the reuse of an existing building is longer than [500] feet of the presence of a unique barrier, including a creek or a grade-separated highway, preclude the creation of pedestrian connection.

SECTION 7.3. Existing and future transportation design.--

(a) A development shall be designed to support existing and future public transportation service.

(b) A passenger rail station on a tract of [20] acres or more shall be designed to encourage pedestrian access to the existing or future public transportation service.

SECTION 7.4. Building design standards.-- ¹⁹⁴ ¹⁹⁵

(a) Building orientation and entrance requirements:¹⁹⁶

(1) The front façade of a building shall be oriented towards an existing and proposed street, with an everyday entrance in the front façade.

(2) A primary building entrance shall be accentuated and accented.

(3) A permitted entrance accent shall include at least one of the following:

- (i) a recessed accent;
- (ii) a protruding accent;
- (iii) a canopy over the entrance;
- (iv) a portico; or
- (v) an overhang accents.

(b) Walls and windows requirements:¹⁹⁷

(1) A blank wall shall not be permitted along any exterior wall facing a street or passenger train station.

¹⁹⁴ New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

¹⁹⁵ Atlanta Regional Commission, Mixed-Use Development, Model Ordinance (The building entrance, setback and window standards above should be tailored to address local characteristics and the intent of the zone. For example, along a main street with shops set right up to the sidewalk, it may be appropriate to require 60 percent window glazing. However, in a corridor commercial zone, where there is less pedestrian activity, it may not be practical or reasonable to set such a high standard)

¹⁹⁶ New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

¹⁹⁷ New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

(2) A ground floor façade of retail, restaurant, and related use facing a street or passenger train station shall comprise a minimum of [] percent clear window area, with a window providing a view of a display area or the inside of the building.

(3) Smoked, reflective or black glass in windows shall be prohibited.

(4) A wall or portion of a wall where a window is not provided shall have an architectural treatment designed to break up the build of the wall, including at least four of the following treatments:

- (1) masonry, excluding flat concrete block;
- (2) concrete or masonry plinth at the base of the wall;
- (3) belt course of a different texture or color;
- (4) projecting cornice;
- (5) projecting metal canopy;
- (6) decorative tilework;
- (7) trellis containing planting;
- (8) medallion;
- (9) opaque or translucent glass;
- (10) artwork;
- (11) vertical/horizontal articulation;
- (12) lighting fixture; or

(13) a similar architectural element not listed above, as approved by [an administrative agency].

(5) A rear and side façade shall have colors and materials that are similar to the front façade and shall blend with structures within the development. A development with more than one building on the site shall have a common and coherent architectural theme throughout the development.

(c) Roofs.--¹⁹⁸

(1) A roof facing a street, parking area, or walking area shall be interrupted at least once every [100] feet by two of the following:

(i) A gable.

(ii) A dormer.

(iii) A vertical change of [5] feet or more.

(iv) A tower.

(v) A dome.

(vi) A barrel vault.

(vii) A projecting cornice.

(viii) An articulated parapet of [5] feet or more.

(ix) The inclusion of a similar architectural feature.

¹⁹⁸ New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

(2) A building shall use a parapet or a mansard type roof style.

(d) Building massing.--¹⁹⁹

(1) A building shall:

(i) Be designed to achieve a fine-grained texture.

(ii) Have at least a [3] foot break in depth in all front facades for every [100] feet of continuance façade.

SECTION 7.5. Parking design.--

(a) Surface parking.--

(1) Surface parking shall be located to the rear or side of a principal building.

(2) Continuously screened if visible from a street.

(b) Structured parking.--

(1) Structured parking shall have a design treatment, including any of the following:

(i) a colonnade;

(ii) an arcade;

(iii) an awning;

(iv) a landscape;

(v) street furniture; or

(vi) any other public amenity to

¹⁹⁹ New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

create the appearance of an occupied building, excluding a blank wall.

(2) A parking garage within a principal building shall have [70] percent of the first floor of the occupied space consisting of any of the following uses:

- (i) office;
- (ii) entertainment;
- (iii) institutional;
- (iv) apartment lobby;
- (v) retail; or
- (vi) restaurant.

(3) All cars within the parking garage shall be visually screened from the street. Screening includes using any of the following:

- (i) a grill;
- (ii) a lattice;
- (iii) a mock window;
- (iv) a louver; or
- (v) false façade.

(4) Structured parking shall be consistent with the existing or future building architectural style and material.

SECTION 7.6. Pedestrian design standards.--²⁰⁰

(a) A sidewalk shall be along a street frontage with retail, restaurant or a related use.

(2) A sidewalk shall connect to a street frontage, including a front building entrance, parking area, plaza, and a destination that generates pedestrian traffic.

(3) A sidewalk shall connect to an existing sidewalk on an abutting tract and any nearby pedestrian destination point and transit stop.

SECTION 7.7. Open space design standards.-- ²⁰¹

(a) An open space shall include any of the following:

- (1) plaza;
- (2) central green;
- (3) playing field;
- (4) playing court;
- (5) trail;
- (6) pedestrian mall;
- (7) promenade;
- (8) picnic area; or
- (9) similar type of usable, public space.

²⁰⁰ New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

²⁰¹ *Id.*

(b) An open space shall be designed as a focal point within the development and shall make public access as easy as possible.

(c) Public access shall be guaranteed to all open space through a deed restriction or other means acceptable to the municipal governing body.

(d) Lighting in open space.-- ²⁰²

(1) Adequate lighting shall be provided in an area open to the public.

(2) Lighting shall not:

(i) shine directly from a light source onto the ground, into a window, or onto abutting property, excluding incidental light; or

(ii) shine directly on a public road, excluding a street light.

SECTION 7.8. Screening and outdoor design standards.--

(a) Screening design standards.-- ²⁰³ All wall-mounted or ground-mounted mechanical, electrical, communication, and service equipment, and service and loading areas shall be screened from public view.

(b) Outdoor dining design standards.-- ²⁰⁴

²⁰² New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

²⁰³ *Id.*

²⁰⁴ New Town Mixed Use District, Montgomery County, Pennsylvania, Model Ordinance

(1) An outdoor dining area shall not impede pedestrian traffic flow.

(2) A minimum pathway of at least [] feet free of obstacles shall be maintained.

(3) An advertising or promotional feature shall be limited to the following:

- (i) an umbrella;
- (ii) a menu board; or
- (iii) a canopy.

(c) Outdoor storage is not permitted.²⁰⁵

SECTION 8. Severability.

The provisions of this ordinance are severable. If any sentence, clause or section of this ordinance is for any reason found to be unconstitutional, illegal or invalid, the unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this ordinance. It is hereby declared to the intent of the Board of Supervisors of [_____]
[Township/Borough] that this ordinance would have been adopted had the unconstitutional, illegal, or invalid sentence, clause or section not been included herein.

SECTION 9. Repeals.²⁰⁶

²⁰⁵ *Id.*

²⁰⁶ Carlisle, Pennsylvania, Municipal Code § 255-119

All other ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 10. Effective date.

This ordinance shall become effective 30 days after enactment.

ENACTED AND ORDAINED THIS _____ DAY of 20_____.