

ROSE VALLEY BOROUGH
ZONING CODE

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BOROUGH OF ROSE VALLEY

ORDINANCE NUMBER 331

AN ORDINANCE TO REPEAL ORDINANCES NUMBER 252, 276, 297 AND 318; TO PROMOTE THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE IN THE BOROUGH OF ROSE VALLEY; TO REGULATE THE SIZE AND LOCATION OF BUILDINGS, THE PERCENTAGE OF A LOT THAT MAY BE OCCUPIED, THE SIZE OF YARDS, AND THE USE OF BUILDINGS AND LAND FOR RESIDENTIAL OR OTHER PURPOSES; TO ESTABLISH AND MAINTAIN BUILDING LINES UPON STREETS AND ROADS; AND TO PROVIDE PENALTIES AND REMEDIES FOR THE ENFORCEMENT THEREOF.

BE IT ORDAINED BY THE COUNCIL OF THE BOROUGH OF ROSE VALLEY:

ARTICLE I

OBJECTIVES AND DEFINITIONS

Section 100. This Ordinance shall be known and may be cited as the “Rose Valley Borough Zoning Code of 2010” or the “Zoning Code”.

Section 101. Community Development Objectives. The goals and objectives of the Borough of Rose Valley with respect to the land development of the Borough are set forth at length in the Multi-Municipal Comprehensive Plan for Nether Providence, Rose Valley, Rutledge and Swarthmore dated October, 2006, and are incorporated herein by reference. The primary objectives are to protect the environment through retention, preservation and development of the natural beauty of the area, to provide the residents of the Borough the opportunity to live in individually-styled homes in a semi-rural setting, to enhance the enjoyment of the outdoors, to maintain vital land areas in their native open state to the greatest extent possible, and to provide the opportunity for access to and enjoyment of open space in a community setting.

Section 102. Definitions. For the purposes of this Ordinance, the following terms shall have the meanings indicated:

ACCESSORY BUILDING. A building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building, such as a garage.

BUILDING. Any structure with a roof which is built for the shelter or enclosure of persons or property. A detached building is a building which has no party wall.

BUILDING HEIGHT. The vertical distance as measured from the average level of the ground surrounding the entire perimeter of the building to the highest point of the roof.

BUILDING LINE. The line parallel to the street line at a distance from the street line equal to the depth of the front yard required for the zone in which the lot is located.

DWELLING.

- (1) Single Family. A building, on a lot, designed and occupied exclusively as a residence for one (1) family.
- (2) Two-family. A building, on a lot, designed and occupied exclusively as a residence for two (2) families.
- (3) Multiple or Apartment. A building, on a lot, designed and occupied exclusively as a residence for three (3) or more families.

FAMILY.

- (1) One or more persons related by blood, adoption or marriage, living together as a single housekeeping unit.
- (2) Not more than two persons living together who are not related by blood, adoption or marriage.

IMPERVIOUS SURFACE. A surface which prevents the infiltration of water into the ground. Impervious surfaces include, but are not limited to, streets, sidewalks, pavements, driveway areas, concrete based patios or decks, and roofs.

INTERIOR (FLAG) LOT. A lot having a configuration such that the buildable portion of the lot is located behind another lot or lots fronting directly onto a public or private street.

LOT. A parcel of land on which a main building and any accessory buildings are or may be placed, together with the required front, rear and side yards.

NET LOT AREA. The area of land included within the title lines of a lot excluding that area set aside as a right of way for a street or an easement for a private driveway or road serving another property.

NO-IMPACT HOME-BASED BUSINESS. A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no employees other than persons residing in the

dwelling, and no customer, client or patient traffic, whether vehicular or pedestrian, in excess of five per week.

OPEN SPACE PRESERVATION. A parcel or parcels of land intended for the use and enjoyment of current and future residents of the Borough and intended to be conserved in an undeveloped state (e.g., woodland, managed meadow, lawn, park land, ornamental garden, creek, stream, pond or other natural state) and permanently restricted against further development.

PEAK RATE OF STORM WATER RUNOFF. The maximum rate of flow of storm water runoff at a given point and time resulting from a storm event.

STREET. A strip of land, including the entire right-of-way, intended primarily as a means of vehicular and pedestrian travel, whether public or private, including “streets”, roads, highways, lanes and ways.

STREET LINE. The dividing line between a lot and the outside boundary of a public street, legally open or officially plotted by the Borough, or a private street over which the owners or tenants of two (2) or more lots held in single and separate ownership have the right-of-way. For the purpose of this Ordinance, no street line shall be considered to be less than twenty (20) feet from the center of the street.

STRUCTURE. Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

YARD.

- (1) **Front.** The required open space, extending along the street line throughout the full width of the lot.
- (2) **Side.** The required open space, extending along the side line of the lot throughout the full depth of the lot.
- (3) **Rear.** The required open space, extending along the rear line of the lot throughout the full width of the lot.

ZONING HEARING BOARD. The Zoning Hearing Board of the Borough of Rose Valley.

ARTICLE II

GENERAL REGULATIONS

Section 200. Mobile homes, boat trailers, boats, storage pods or other storage structures, recreational vehicles, campers, trailers, or similar vehicles may not be used as domiciles or abodes in the Borough at any time. The parking or storage of the aforementioned shall only be permitted behind the front building line of the property. In the case of a corner lot, the parking or storage of the aforementioned shall also be behind the side yard setback line on the street side of the property.

Section 201. Building Height. The maximum building height for a main building shall be 35 feet. The maximum building height for an accessory building or other structure shall be 20 feet. Chimneys, spires, towers, mechanical penthouses, tanks, antennas and similar projections not intended for human occupancy shall not be included when calculating height. However, such projections shall not be more than ten (10) feet above the highest point of the roof. This latter restriction shall not apply to a wireless communications antenna, the height of which is governed by Article XI, Section 1104.B.

Section 202. Storm Water Management. The anticipated peak rate of storm water runoff from the site during and after development shall not exceed the peak rate of runoff from the site prior to development activities. For those developments involving the creation of 7,500 square feet or more of impervious cover, a storm water management component consistent with the standards and criteria of the Rose Valley Stormwater Management Ordinance for the Ridley Creek Watershed and the Act 167 Stormwater Management Plan for the Ridley Creek Watershed shall be prepared.

Section 203. Obstruction of View on Corner Lots. On no corner lot shall a wall, fence or other structure or a sign be erected or altered or a hedge, tree, shrub or other growth be maintained so as to cause danger to street traffic by obscuring drivers' clear lines of sight at an intersection above a height of 2-1/2 feet or below a height of 8 feet.

ARTICLE III

ZONING DISTRICTS

Section 300. ZONING DISTRICTS. For the purpose of this Zoning Code, the Borough is hereby divided into the following districts which shall be designated as follows:

Zone A	Residential District
Zone B	Residential District
Zone C	Residential District
PRD	Planned Residential Development District
OSP	Open Space Preservation District
IN	Institutional District

Section 301. ZONING MAP. The boundaries of said Zoning Districts shall be shown upon the Zoning Map of the Borough of Rose Valley, dated April 14, 2010, attached to and made a

part of this Ordinance, which shall be designated and known as the "Zoning Map." The said map with all of the notations, references and other data shown thereon is hereby constituted and shall be as much a part of this Ordinance as if the matters and things shown by and upon said map were all fully described herein.

ARTICLE IV

ZONE A RESIDENTIAL DISTRICT

Section 400. Zone A is all the land within the Borough which is not included in Zones B or C, or designated as Planned Residential Development, Open Space Preservation or Institutional. The following regulations shall apply in Zone A.

Section 401. Permitted Uses. A building may be erected, altered or used, and a lot or premises may be used, for the following purposes and no other:

- A. A single-family detached dwelling.
- B. Accessory buildings.
- C. Accessory uses.
 - (1) A no-impact home-based business which shall comply with all of the following restrictions and standards:
 - (a) The business activity shall be compatible with the residential use of the property.
 - (b) The business shall employ no employees other than persons residing in the dwelling.
 - (c) There shall be no display or sale of retail goods and no stockpiling of inventory.
 - (d) There shall be no outside appearance of business.
 - (e) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception.
 - (f) The business activity may not generate any solid waste or sewage discharge which is not of a type or amount normally associated with residential use.

- (g) The business activity conducted may not occupy more than 30% of the total floor area; and the business activity may not involve any illegal activity.
 - (h) The business activity may not result in pickup, delivery or removal services, to or from the premises, in excess of those normally associated with residential use.
- (2) Such accessory use of the same lot as is customarily incidental to and part of any of the above permitted uses.

D. Special Exceptions.

- (1) The term "accessory use" shall include professional offices or studios for the personal use of a physician, attorney, dentist, accountant, architect, engineer, musician, psychologist or similar professional who customarily has an office in the home at which he or she sees in excess of five customers, clients or patients per week, provided that such use is limited to one practitioner, and only when authorized as a special exception by the Zoning Hearing Board. No such exception shall be authorized unless in addition to those standards applicable to special exceptions in general, adequate off-street parking is provided, no space is leased or otherwise made available for use by any person other than the owner or original tenant of the premises and that the essential character of the premises as a single-family residence is maintained.
- (2) The term "accessory use" shall include home occupations with not more than one person who is not a resident of the dwelling engaged or employed in such business only when authorized as a special exception by the Zoning Hearing Board. No such exception shall be authorized unless in addition to those standards applicable to special exceptions in general, adequate off-street parking is provided, all the requirements for a no-impact home-based business in item C.(1) above are met, other than requirement (b), and that the essential character of the premises as a single-family residence is maintained.

Section 402. Lot Area and Width. A lot of not less than one acre shall be provided for every main building hereafter erected, altered or used in whole or in part as a dwelling. Each lot shall have a width of not less than one hundred fifty (150) feet at the building line. The ground area of the buildings shall not exceed ten percent (10%) of the lot area.

Section 403. Yards. On each lot there shall be two side yards with an aggregate width of fifty (50) feet, neither of which shall be less than twenty (20) feet. On each lot there shall be a front yard which shall not be less than fifty-five (55) feet measured from the street line, and a rear yard of not less than forty (40) feet.

Section 404. Corner Lots. In the case of a corner lot, a front yard as provided for in Section 403 hereof shall be required on each street on which the lot abuts; PROVIDED, that if at the effective date of this Ordinance, any corner lot with a width of less than one hundred seventy (170) feet at the building line is held in single and separate ownership, the depth of the rear yard, if on the long side of the lot, may be decreased to not less than twenty (20) feet, when authorized as a special exception by the Zoning Hearing Board.

Section 405. Alterations and Additions. No alterations or additions shall be made to any conforming building which will, in any way, make it then non-conforming, and no alterations or additions shall be made to any non-conforming building which will, in any way, then increase the non-conformity, unless a special exception is first obtained.

Section 406. Interior (Flag) Lots. A building may be erected on an interior lot under the following conditions:

- A. The buildable portion of the interior lot shall be connected to a public or private street via at least a 25 ft wide strip of land. The minimum 25 ft wide strip of land shall be either part of the interior lot; or the interior lot shall have access and utility easement rights over the minimum 25 ft wide strip of land on the lot located between the buildable portion of the interior lot and the public or private street.
- B. The interior lot shall contain a minimum area of one acre exclusive of the minimum 25 ft wide access strip. If a minimum 25 ft wide easement is placed on the lot with full frontage on the public or private street, this front lot must maintain a minimum area of one acre exclusive of the minimum 25 ft wide easement.
- C. In order to provide adequate buffer between the interior lot and the adjoining properties, the interior lot shall have two side yards with an aggregate width of at least eighty (80) feet, neither of which shall be less than thirty five (35) feet. The front yard shall not be less than seventy (70) feet, as measured from the rear property line of the front lot, and the rear yard shall not be less than sixty (60) feet.

Section 407. Unattached Accessory Buildings. A private garage or other accessory building which is not a structural part of a main building may be located in the required rear yard, provided it shall be situated not less than twenty (20) feet farther back from the street line than the rearmost portion of the main building and not less than twenty (20) feet from any property line, except that in the case of a corner lot, the accessory building shall not be located closer than twenty (20) feet to any property line nor less than sixty-five (65) feet measured from any street line. No building on a lot shall be within twenty (20) feet of any other building on the lot, except that the Zoning Hearing Board may reduce this distance to as little as ten (10) feet for buildings of masonry construction with a fire resistant roof.

Section 408. Signs. Signs may be erected and maintained only in accordance with the provisions of Article X of this Ordinance.

Section 409. Impervious Surface Coverage. The total area covered by impervious surfaces shall not exceed twenty percent (20%) of the net lot area. For the purpose of calculating impervious surface area within a residential district, any surface areas which are gravel or crushed stone shall be regarded as impervious surfaces. Developments involving the creation of 7,500 square feet or more of new impervious cover shall include a storm water management component which is consistent with the Act 167 plan for the Ridley Creek watershed.

Section 410. Ridley Creek Setback. No building or structure shall be erected within one hundred fifty (150) feet of Ridley Creek except when authorized as a special exception by the Zoning Hearing Board.

Section 411. Apartments. Dwellings which, at the effective date of this Ordinance, contain more than three (3) apartment units may not be razed and rebuilt to include more than three (3) apartment units.

ARTICLE V

ZONE B RESIDENTIAL DISTRICTS

Section 500. Zone B is all the land within the Borough northeast of and including the former right-of-way of the Philadelphia Rapid Transit Company between Woodward Road and Possum Hollow Road, and also those lots whose full front or full rear lot lines are along Sackville Mills Lane. The following regulations shall apply in Zone B.

Section 501. Permitted Uses. A building may be erected, altered or used, and a lot or premises may be used, for any of the following purposes and for no other:

A. Any use permitted in Zone A.

Section 502. Lot Area and Width. A lot area of not less than one-half acre shall be provided for every main building hereafter erected, altered or used in whole or in part as a dwelling. Each lot shall have a width of at least one hundred (100) feet at the building line. The ground area of the buildings shall not exceed fifteen percent (15%) of the lot area.

Section 503. Yards. On each lot there shall be two side yards with an aggregate width of forty (40) feet, neither of which shall be less than fifteen (15) feet. On each lot there shall be a front yard which shall be not less than forty-five (45) feet measured from the street line, and a rear yard of not less than forty (40) feet.

Section 504. Corner Lots. In the case of a corner lot, a front yard as provided for in Section 503 hereof shall be required on each street on which the lot abuts; PROVIDED, that if at the effective date of this Ordinance any corner lot with a width of less than one hundred twenty

(120) feet at the building line be held in single and separate ownership, the depth of rear yard, if on the long side of the lot, may be decreased to not less than fifteen (15) feet when authorized as a special exception by the Zoning Hearing Board.

Section 505. Alterations and Additions. No alterations or additions shall be made to any conforming building which will, in any way, make it then non-conforming. No alterations or additions shall be made to any non-conforming building which will in any way, then increase the non-conformity, unless a special exception is first obtained.

Section 506. Interior (Flag) Lots. A building may be erected on an interior lot under the following conditions:

- A. The buildable portion of the interior lot shall be connected to a public or private street via at least a 25 ft wide strip of land. The minimum 25 ft wide strip of land shall be either part of the interior lot; or the interior lot shall have access and utility easement rights over the minimum 25 ft wide strip of land on the lot located between the buildable portion of the interior lot and the public or private street.
- B. The interior lot shall contain a minimum area of one-half acre exclusive of the minimum 25 ft wide access strip. If a minimum 25 ft wide easement is placed on the lot with full frontage on the public or private street, this front lot must maintain a minimum area of one-half acre exclusive of the minimum 25 ft wide easement.
- C. In order to provide adequate buffer between the interior lot and the adjoining properties, the interior lot shall have two side yards with an aggregate width of at least sixty (60) feet, neither of which shall be less than twenty five (25) feet. The front yard shall not be less than sixty (60) feet, as measured from the rear property line of the front lot, and the rear yard shall not be less than fifty (50) feet.

Section 507. Unattached Accessory Buildings. A private or other accessory building which is not a structural part of a main building may be located in the required rear yard, provided it shall be situated not less than twenty (20) feet farther back from the street line than the rearmost portion of the main building and not less than fifteen (15) feet from any property line, except that in the case of a corner lot, the accessory building shall not be located closer than fifteen (15) feet to any property line and not less than fifty-five (55) feet measured from any street line. No building on a lot shall be within twenty (20) feet of any other building on the lot, except that the Zoning Hearing Board may reduce this distance to not less than ten (10) feet for buildings of masonry construction with a fire resistant roof.

Section 508. Signs. Signs may be erected and maintained only in accordance with the provisions of Article X of this Ordinance.

Section 509. Impervious Surface Coverage. The total area covered by impervious surfaces shall not exceed thirty percent (30%) of the net lot area. For the purpose of calculating

impervious surface area within a residential district, any surface areas which are gravel or crushed stone shall be regarded as impervious surfaces.

Section 510. Apartments. Dwellings which, at the effective date of this Ordinance, contain more than three (3) apartment units may not be razed and rebuilt to include more than three (3) apartment units.

ARTICLE VI

ZONE C RESIDENTIAL DISTRICT

Section 600. Zone C is all that land within the Borough comprised of lots fronting on North or South Longpoint Lane. The following regulations shall apply in Zone C.

Section 601. Permitted Uses. A building may be erected, altered or used, and a lot or premises may be used, for any of the following purposes and for no other:

A. Any use permitted in Zone A.

Section 602. Lot Area and Width. A lot area of not less than 30,000 square feet shall be provided for every main building hereafter erected, altered or used in whole or in part as a dwelling. Each lot shall have a width of not less than one hundred twenty-five (125) feet at the building line. The ground area of the buildings shall not exceed twelve percent (12%) of the lot area.

Section 603. Yards. On each lot there shall be two side yards with an aggregate width of fifty (50) feet, neither of which shall be less than twenty (20) feet. On each lot there shall be a front yard which shall not be less than fifty-five (55) feet measured from the street line, and a rear yard of not less than forty (40) feet.

Section 604. Corner Lots. In the case of a corner lot, a front yard as provided for in Section 603 hereof shall be required on each street on which the lot abuts; PROVIDED, that if at the effective date of this Ordinance, any corner lot with a width of less than one hundred forty-five (145) feet at the building line be held in single and separate ownership, the depth of the rear yard, if on the long side of the lot, may be decreased to not less than twenty (20) feet, when authorized as a special exception by the Zoning Hearing Board.

Section 605. Alterations and Additions. No alterations or additions shall be made to any conforming building which will, in any way, make it then non-conforming. No alterations or additions shall be made to any non-conforming building which will, in any way, then increase the non-conformity, unless a special exception is first obtained.

Section 606. Interior (Flag) Lots. A building may be erected on an interior lot under the following conditions:

- A. The buildable portion of the interior lot shall be connected to a public or private street via at least a 25 ft wide strip of land. The minimum 25 ft wide strip of land shall be either part of the interior lot; or the interior lot shall have access and utility easement rights over the minimum 25 ft wide strip of land on the lot located between the buildable portion of the interior lot and the public or private street.
- B. The interior lot shall contain a minimum area of 30,000 square feet exclusive of the minimum 25 ft wide access strip. If a minimum 25 ft wide easement is placed on the lot with full frontage on the public or private street, this front lot must maintain a minimum area of 30,000 square feet exclusive of the minimum 25 ft wide easement.
- C. In order to provide adequate buffer between the interior lot and the adjoining properties, the interior lot shall have two side yards with an aggregate width of at least seventy (70) feet, neither of which shall be less than thirty (30) feet. The front yard shall not be less than sixty five (65) feet, as measured from the rear property line of the front lot, and the rear yard shall not be less than sixty (60) feet.

Section 607. Unattached Accessory Buildings. A private garage or other accessory building which is not a structural part of a main building may be located in the required rear yard, provided it shall be situated not less than twenty (20) feet farther back from the street line than the rearmost portion of the main building and not less than twenty (20) feet from any property line, except that in the case of a corner lot, the accessory building shall not be located closer than twenty (20) feet to any property line nor less than sixty-five (65) feet from any street line. No building on a lot shall be within twenty (20) feet of any other building on the lot, except that the Zoning Hearing Board may reduce this distance to as little as ten (10) feet for buildings of masonry construction with a fire resistant roof.

Section 608. Signs. Signs may be erected and maintained only in accordance with the provisions of Article X of this Ordinance.

Section 609. Impervious Surface Coverage. The total area covered by impervious surfaces shall not exceed twenty-five percent (25%) of the net lot area. For the purpose of calculating impervious surface area within a residential district, any surface areas which are gravel or crushed stone shall be regarded as impervious surfaces. Developments involving the creation of 7,500 square feet or more of new impervious cover shall include a storm water management component which is consistent with the Act 167 plan for the Ridley Creek watershed.

Section 610. Ridley Creek Setback. No building or structure shall be erected within one hundred twenty (120) feet of Ridley Creek except when authorized as a special exception by the Zoning Hearing Board.

ARTICLE VII

OPEN SPACE PRESERVATION DISTRICTS

Section 700. Purpose. The purpose of this Article is to protect and preserve parcels of land intended for the use and enjoyment of current and future residents of the Borough and intended to be conserved in an undeveloped state (e.g., woodland, managed meadow, lawn, park land, ornamental garden, creek, stream, pond or other natural state) and permanently restricted against further development. Parcels donated or conveyed to the Borough or purchased by the Borough with the understanding that they would remain undeveloped or be returned to an undeveloped state, shall be designated and zoned as Open Space Preservation, upon approval by Ordinance of Borough Council. The following regulations shall apply in Open Space Preservation Districts.

Section 701. Permitted Uses. Land designated as Open Space Preservation shall be permanently restricted from future subdivision and land development. Except as otherwise permitted in this Section, development shall not be permitted in Open Space Preservation at any time. The lot or premises may be used for any of the following purposes and no other:

- A. Conservation of open land in an undeveloped state (e.g., woodland, managed meadow, lawn, park land, ornamental garden, creek, stream, pond or other natural state).
- B. Common greens, trails, and similar low-impact passive recreational uses, specifically excluding bicycles, motorbikes, motorized off-road vehicles and other uses similar in character and potential impact as determined by the Borough Council.
- C. Naturalized stormwater retention and recharge areas designed, landscaped, and available as an integral feature of the open space area and capable of being used or enjoyed (e.g., a scenic feature, open meadow).
- D. Easements for drainage, access, sewer or water lines, or other public uses, excluding easements for private streets.
- E. Underground utility rights-of-way.
- F. Where historical or cultural resources such as stone or masonry chimneys, walls, bridges, dams, pillars, pools, amphitheaters or ruins exist, the Borough may maintain and preserve such objects or areas.
- G. Existing parking areas constructed using pervious materials.

Where disturbance of open space is proposed, determination of the necessity for such disturbance shall lie with the Borough Council. Disturbance shall be kept to the minimum

necessary. For example, clearing of woodland habitat shall be prohibited, except as necessary to create trails, stormwater management facilities or to remove invasive plant species.

Section 702. Designated Parcels. Upon approval of this Ordinance, the following designated parcels shall be zoned as Open Space Preservation: Folio Nos. 39-00-00125-00, 39-00-00125-50, 39-00-00125-51, 39-00-00161-02 (Saul Wildlife Sanctuary), Folio No. 39-00-00066-50 (Long Point Wildlife Sanctuary), Folio No. 39-00-00157-00 (Pew Park), Folio No. 39-00-00069-08 (Ewing donation), Folio No. 39-00-00187-13 (Allen donation), Folio No. 39-00-00153-04 (Baxter donation), Folio No. 39-00-00022-23 (Forestview purchase), Folio No. 39-00-00162-00 (Valley Green purchase) and Folio Nos. 39-00-00161-49, 39-00-00161-50, 39-00-00161-51 and 39-00-00161-52) (Traymore Planned Residential Development Open Space conveyed to the Borough).

ARTICLE VIII

INSTITUTIONAL DISTRICTS

Section 800. Purpose. The purpose of this Article is to provide a zoning for institutional uses which serve the interests of Borough residents by providing significant benefits to the local community. Parcels shall be designated and zoned as Institutional Districts, upon approval by Ordinance of Borough Council. The following regulations shall apply in Institutional Districts.

Section 801. Overlay Concept. The Institutional District shall be deemed to be an overlay on designated properties in the Borough.

- A. On those properties where the Institutional District applies, the requirements of the Institutional District shall supersede the requirements of the underlying zoning district.
- B. Should the Institutional District designation be invalidated as a result of administrative or judicial decision, the applicable zoning requirements shall revert to the requirements of the underlying zoning district without consideration of this Article.

Section 802. Permitted Uses. A building may be erected, altered or used, and a lot or premises used, for any of the following purposes and no other:

- A. Churches, chapels or other places of worship, including associated cemeteries, parsonages, playgrounds and nursery schools.
- B. Elementary and secondary schools, including associated offices, recreational facilities and swimming pools for the sole use of the institution for school activities and summer programs.

- C. Swimming pool and tennis court facilities open by membership at a minimum to residents of Rose Valley Borough, including associated offices, bathhouses and filter houses.
- D. Community fraternal organizations open by membership at a minimum to residents of Rose Valley Borough, including associated social, cooking and dining facilities and catering services which may be used for a fee by the public.
- E. Municipal buildings, offices, meeting rooms, garages, storage facilities, police and fire stations, recreation facilities, playgrounds, sports fields or other municipal uses.
- F. Repertory theatres featuring live actors, including associated offices, meeting rooms and storage facilities.
- G. Local history and culture museums, including associated offices and storage facilities.
- H. Institutional use by a non-profit or not-for-profit organization which serves the interest of Borough residents by providing significant benefits to the local community.
- I. Such accessory use of the same lot as is customarily incidental to and part of any of the above permitted uses.

Section 803. Designated Parcels. Upon approval of this Ordinance, the following designated parcels shall be zoned as Institutional: Folio No. 39-00-00133-00 (Hedgerow Theater), Folio No. 39-00-00007-00 (The Old Mill), Folio Nos. 39-00-00008-50, 39-00-00150-00 (Old Union Church), Folio No. 39-00-00082-00 (Rose Valley Swimming Pool) and Folio Nos. 39-00-00187-00, 39-00-00161-01 (The School in Rose Valley).

Section 804. Lot Area and Width. Any use within this district shall have a lot area of not less than 2 acres, unless that lot has at least three hundred (300) feet of road frontage on a State road. Each lot shall have a width of not less than one hundred fifty (150) feet at the building line. The ground area of the buildings shall not exceed ten percent (10%) of the lot area.

Section 805. Yards. On each lot there shall be two side yards with an aggregate width of fifty (50) feet, neither of which shall be less than twenty (20) feet. On each lot there shall be a front yard which shall not be less than fifty-five (55) feet measured from the street line, and a rear yard of not less than forty (40) feet. In the case of a corner lot, a front yard of not less than fifty-five (55) feet shall be required on each street on which the lot abuts.

Section 806. Parking. Adequate parking facilities shall be provided. The availability of off-site parking may be taken into consideration for events of an infrequent nature.

Section 807. Alterations and Additions. No alterations or additions shall be made to any conforming building which will, in any way, make it then non-conforming. No alterations or additions shall be made to any non-conforming building which will in any way, then increase the non-conformity, unless a special exception is first obtained.

Section 808. Water and Sewer. Institutional Districts shall be served by public water and sewer.

Section 809. Unattached Accessory Buildings. A private garage or other accessory building which is not a structural part of a main building may be located in the required rear yard, provided it shall be situated not less than twenty (20) feet farther back from the street line than the rearmost portion of the main building and not less than twenty (20) feet from any property line, except that in the case of a corner lot, the accessory building shall not be located closer than twenty (20) feet to any property line nor less than sixty-five (65) feet from any street line. No building on a lot shall be within twenty (20) feet of any other building on the lot, except that the Zoning Hearing Board may reduce this distance to as little as ten (10) feet for buildings of masonry construction with a fire resistant roof.

Section 810. Signs. Signs may be erected and maintained only in accordance with the provisions of Article X of this Ordinance.

Section 811. Impervious Surface Coverage. The total area covered by impervious surfaces shall not exceed twenty-five percent (25%) of the net lot area. For the purpose of calculating impervious surface area in an Institutional District, surface areas which are gravel or crushed stone shall be regarded as pervious surfaces. Developments involving the creation of 7,500 square feet or more of new impervious cover shall include a storm water management component which is consistent with the Act 167 plan for the Ridley Creek watershed.

ARTICLE IX

PLANNED RESIDENTIAL DEVELOPMENT DISTRICT

Section 900. Definitions. For the purposes of this Article, the following terms shall have the meanings indicated:

ADJUSTED TRACT AREA. The gross tract area minus the constrained land.

APPLICANT. A landowner or developer, as herein defined, who has filed an application for development, including his heirs, successors and assigns or the equitable owner of property with the owner's permission.

COMMON FACILITIES. All the real property and improvements, including without limitation, landscaped areas, buffers, open space not included within title lines of any privately owned lot, street rights-of-way not dedicated to Rose Valley Borough, owned in common by residents within the development which is served by the facilities.

CONSERVANCY LOT. A large, privately-owned lot, containing an existing dwelling, comprising part of the required open space in a Planned Residential Development. An area of at least one acre surrounding the dwelling is set aside and may not be counted toward the required minimum open space. The remainder of the conservancy lot is permanently protected open space. Public access to conservancy lots is not required.

CONSTRAINED LAND. The sum acreage of certain natural resources or other physical features that are deemed unsuitable for development due to environmental sensitivity or legal restrictions such as easements or rights-of-way (see Section 905.A).

DEVELOPER. Any landowner, agent of a landowner, tenant with permission of a landowner, or equitable owner, who makes or causes to be made, an application for a subdivision or land development.

GROSS TRACT AREA. The total amount of land contained within the limits of the legally described property lines bounding the tract, excluding the area within the existing legal right-of-way of perimeter roads.

HEIGHT. The vertical distance measured from the average elevation of the existing grade at the location of the building to the highest point of a flat or multi-level roof, or, for gable, hip or gambrel roofs, the mean height between the eaves and the ridge. Chimneys, spires, towers, mechanical penthouses, tanks and similar projections not intended for human occupancy shall be excluded.

INVASIVE PLANT SPECIES. Predominantly non-native, non-indigenous, alien tree, shrub, vine, or herbaceous species that grow or reproduce aggressively, usually because they have few or no natural predators, and which can so dominate an ecosystem that they kill off or drive out many indigenous plant species. A list of invasive plant species, for the purposes of this Ordinance, may be viewed at the PADCNR website <http://www.dcnr.state.pa.us/forestry/wildplant/invasive.aspx>. Copies are available at the Borough Hall and are subject to periodic revision.

LANDOWNER. The legal or beneficial owner, or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

OPEN SPACE. A parcel or parcels of land or an area of water, or a combination of land and water, within a development site, designed and intended for the use and enjoyment by the residents of such development and possibly the general public. Open space is permanently restricted against further development.

SPECIMEN TREES. Individual trees determined to be of specimen quality as determined by a registered landscape architect or arborist, or trees which generally fall within the parameters of the following table. The examples in the table are intended to provide general guidelines as to what constitutes a specimen tree and is not considered all inclusive.

Species	Min. Size dbh	Species	Min. Size dbh	Species	Min. Size dbh
Ash	32"	Locust	30"	Sassafras	20"
Beech	32"	Maple	32"	Spruce	30"
Cherry	24"	Oak	32"	Sycamore	36"
Elm	30"	Osage Orange	20"	Tulip Poplar	36"
Hemlock	30"	Pine	30"	Walnut	30"
Hickory	32"				

STEEP SLOPES. Those areas of land where the grade is fifteen (15) percent or greater. For the purposes of this Ordinance, steep slopes are divided into two categories:

- A. Steep slopes are those areas of land which involve terrain elevation changes of 15% to 25% with a vertical change of at least eight feet (8'), as indicated, for example, by four (4) adjacent rising contour intervals of two feet (2') each.
- B. Very steep slopes are those areas of land which involve terrain elevation changes greater than 25% with a vertical change of at least 10 feet (10'), as indicated, for example, by five (5) adjacent rising contour intervals of two feet (2') each.

All slope measurements shall be determined by a topographic survey signed and sealed by a registered surveyor or engineer licensed to practice in the Commonwealth of Pennsylvania.

SUBDIVISION ORDINANCE. The "Sub-Division Ordinance of the Borough of Rose Valley of 1964", adopted July 8, 1964, as amended from time to time.

Section 901. Purpose.

In addition to the Community Development Objectives in Section 2 of this Ordinance it is the purpose of the Planned Residential Development Overlay District to:

- A. Conserve environmentally sensitive areas, including those areas containing unique and sensitive natural resources such as woodlands, steep slopes, streams, floodplains and wetlands.
- B. Provide greater design flexibility and efficiency in siting services and infrastructure, including the opportunity to reduce length of roads, driveways and utilities.
- C. Reduce erosion and sedimentation by retaining existing vegetation, minimizing development on steep slopes, and reducing earth disturbances.
- D. Provide opportunities to use best management practices in stormwater management.

- E. Provide development options for applicants who minimize impacts on sensitive environmental resources, reduce disturbance of natural and cultural features, and conserve existing character.
- F. Provide flexible standards for addressing varying circumstances and interests of individual applicants and the unique characteristics of their properties.

Section 902. Applicability.

This District shall be an overlay on Zone A and shall apply when the eligibility requirements in Section 903 are met.

Section 903. Eligibility Requirements.

No application for a Planned Residential Development shall be considered or approved by the Borough Council unless the following initial requirements are met:

- A. The proposed development site shall consist of one or more contiguous parcels of land under single ownership or control, which shall be developed according to a single plan.
- B. The total area of the proposed development site shall be at least twenty-five (25) acres of land and shall be situated entirely within Zone A.
- C. Public water and sewer services are required and must be adequate to serve the proposed development.
- D. The proposed development shall be generally consistent with the goals and objectives of the Multi-Municipal Comprehensive Plan.

Section 904. Use Regulations.

Uses permitted in a Planned Residential Development shall be limited to:

- A. Single-family detached dwellings.
- B. Single-family semi-detached dwellings.
- C. Single-family attached dwellings in groups of three.
- D. Open space.

Section 905. Number of Permitted Dwelling Units.

Determination of the maximum number of permitted dwelling units in a Planned Residential Development shall be based upon the Adjusted Tract Area of the site and the calculations set forth below. The unit of measure for land area shall be acres.

- A. Constrained Lands. Constrained lands shall be deducted from the gross tract area and shall consist of 100 percent of floodplain, wetlands, very steep slopes, land within

rights-of-way of existing public streets and highways, within the rights-of-way for existing or proposed overhead utility lines and land under or within easements for existing private streets, shared lanes and parking areas.

B. Adjusted Tract Area.

The Adjusted Tract Area shall equal the Gross Tract Area minus the Constrained Lands (acres) as determined in Subsection A above.

Formula: Adjusted Tract Area (acres) = Gross Tract Area (acres) - Constrained Lands (acres)

C. Number of Dwelling Units Permitted by Right.

The number of dwelling units permitted by right shall equal the Adjusted Tract Area multiplied by 1.90.

Formula: Number of Permitted Dwelling Units = Adjusted Tract Area (acres) x 1.90.

Where dwelling unit calculations result in fractional numbers, a fraction of 0.5 or higher shall be rounded up to the next whole number and a fraction of less than 0.5 shall be rounded down to the next lowest whole number.

D. Historic Resource Density Bonus. For the purpose of encouraging the preservation of historic resources, additional principal dwelling units may be permitted, at the discretion of the Borough Council, in excess of the number of units otherwise permitted in Section C above, in accordance with the following provisions:

- (1) The historic resources to be preserved are identified in Section 922, Appendix A: PRD Historic Resource Density Bonus.
- (2) One (1) additional, new principal dwelling unit may be permitted for each historic dwelling that is preserved. This bonus shall include historic structures that were not originally intended to be used as dwellings, but are used as dwellings at the time of application. The new principal dwelling thus permitted shall not be counted toward the number of units otherwise permitted in Section C above.
- (3) Additions or alterations to the historic dwelling shall conform to the separation distances in Section 907.
- (4) The configuration of a lot created for an historic dwelling shall properly accommodate the unique characteristics of the dwelling, subject to approval by Borough Council.
- (5) The Borough may request that a facade easement be established on one or more of the historic dwelling unit facades. The Borough shall approve the form and content of the easement and shall hold the easement. Other historic structures may be included in the facade by agreement between the applicant and the Borough.

- E. Maximum Number of Permitted Dwelling Units. The maximum number of dwelling units permitted on a development site equals the total of units permitted by right in Section C above plus any additional units permitted as the result of the historic resource density bonus in Section D above.

Section 906. Open Space.

- A. Minimum Open Space. The minimum open space required shall equal 50 percent of the gross tract area. The following shall not be used to meet the minimum open space requirement:
- (1) Any portion of any building lot, except in the form of conservancy lots as permitted in Subsection C below.
 - (2) Street cartway and right-of-way, public or private, or off-street parking areas; easements permitting private streets.
 - (3) Above-ground utility rights-of-way.
 - (4) Any land within twenty (20) feet of a building wall, deck or balcony of a new residential dwelling unit.
- B. Common Greens. At least three (3) percent of the required open space shall be in the form of common greens. A green is typically 5,000-15,000 square feet in area, with a maximum area of 32,000 square feet, and shall be located internal to the developed areas. A green shall be created and maintained as the open space around which dwellings are arranged. A green shall abut a road on at least one side for a distance of at least 120 linear feet.
- C. Conservancy Lots. Conservancy lots may be established to provide proper landscape context to an existing dwelling, while keeping the land under private ownership and maintenance. A conservancy lot shall conform to the following standards:
- (1) The conservancy lot shall be at least 2.0 acres in area.
 - (2) The conservancy lot may occupy up to thirty percent (30%) of the required open space, with the remainder of the required open space deeded to a homeowners association, private, non-profit organization or the Borough.
 - (3) A minimum area of at least one (1) acre surrounding the dwelling shall be set aside and shall not be counted toward the required open space. Within the one (1) acre, additional structures may be constructed in accordance with all other applicable regulations. Once established and approved, this area shall not be further subdivided. The remainder of the conservancy lot shall be permanently protected from future subdivision and land development subject to the provisions of Section 1512 Ownership and Maintenance of Open Space and Common Facilities.

- (4) The lot configuration shall accommodate the unique characteristics of the dwelling, subject to approval by Borough Council.
 - (5) The conservancy lot shall be held under individual private ownership as set forth in Section 912.B.(6).
 - (6) The conservancy lot shall conform to the separation distances in Section 907.
- D. Uses Permitted in Open Space. The following uses shall be permitted within the required open space:
- (1) Conservation of open land in its natural state (e.g., woodland, managed meadow, lawn, park land, ornamental garden, creek, stream, pond or other natural state);
 - (2) Common greens, trails, and similar low-impact passive recreational uses, specifically excluding bicycles, motorbikes, motorized off-road vehicles and other uses similar in character and potential impact as determined by the Borough Council.
 - (3) Naturalized stormwater retention and recharge areas designed, landscaped, and available as an integral feature of the open space area and capable of being used or enjoyed (e.g., a scenic feature, open meadow) by the residents of the development or Borough, as determined by the Borough Council.
 - (4) Easements for drainage, access, sewer or water lines, or other public uses, excluding easements for private streets.
 - (5) Underground utility rights-of-way.

Section 907. Separation Distances.

It is not required to create lots. If lots are created, lot lines shall be shown. Whether or not lots are created, separation distances between principal dwellings (including historic dwellings) and accessory buildings shall be met as follows:

- A. The minimum separation shall be fifty (50) feet measured perpendicularly from any point on the rear wall of any principal dwelling to any point on any other building, excluding buildings accessory to said principal dwelling.-
- B. Minimum separation distances from any other points between principal buildings shall be twenty-five (25) feet.
- C. The minimum separation distance at any point between accessory buildings (e.g., detached garages or sheds) and the principal buildings to which they are accessory shall not be less than twelve (12) feet; minimum separation distances between accessory buildings and any other building shall be thirty (30) feet.
- D. Accessory buildings shall not be permitted on residential lots of less than ten-thousand (10,000) square feet in gross area.

- E. Front-facing garages shall be set back a minimum of eight (8) feet from the front façade of the dwelling unit. If the front façade is not uniform, the eight (8) foot setback shall be measured from the point of the façade nearest the street. This requirement need not be met if, in the opinion of Borough Council, the applicant has provided architectural alternatives that are acceptable.

- F. The minimum setback from the edge of the cartway (or outside edge of the curb if applicable) of any local road which is part of the proposed subdivision/land development shall not be less than twenty-five (25) feet. Where abutting an arterial or collector road within the proposed subdivision/land development, the setbacks shall be as follows:
 - (1) Arterial Road: seventy-five (75) feet
 - (2) Collector Road: sixty-five (65) feet

- G. In addition to the individual building setback requirements set forth in Subsections A-F above, new buildings shall meet the following guidelines for minimum setbacks whether the adjacent use is on or off the site.
 - (1) From external road future rights-of-way: seventy-five (75) feet
 - (2) From other tract boundaries: forty (40) feet

- H. For each dwelling, the applicant shall indicate a building envelope which complies with the separation distances above.

Section 908. Buffers for Adjacent Public Parkland.

- A. Where the proposed development adjoins public parkland, a natural buffer of at least one hundred and fifty (150) feet in depth shall be provided within the development along its common boundary with the parkland, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted, except as may be necessary for trail construction.

- B. Where the required buffer is un-wooded, the Borough Council may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through “no mow” policies and the periodic removal of invasive plant species.

- C. Proposed maintenance of the parkland buffer shall be included in the Open Space Management Plan required in Section 912.C.

Section 909. Impervious Surface Coverage.

Maximum impervious surface coverage shall be twenty-two percent (22%) of the gross tract area.

Section 910. Height Regulations.

- A. Principal building: maximum 35 feet, not exceeding 2.5 stories.

- B. Accessory building: maximum 15 feet, not exceeding 1.5 stories.

Section 911. Utilities.

- A. The development shall be served by public water supply and public sewers.
- B. All utilities shall be placed underground.
- C. The applicant shall present evidence to the Borough Council that the development is to be supplied by a certificated public utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission, or a commitment or agreement to serve the area in question shall be acceptable evidence.

Section 912. Ownership and Maintenance of Open Space and Common Facilities.

A. Permanent Protection of Open Space.

- (1) Open space shall be permanently restricted from future subdivision and land development. Except as otherwise permitted in this Section, development shall not be permitted in the open space at any time. Conservancy lots shall be permanently restricted from future subdivision and land development.
- (2) Where disturbance of open space is proposed, determination of the necessity for such disturbance shall lie with the Borough Council. Disturbance shall be kept to the minimum necessary. For example, clearing of woodland habitat shall be prohibited, except as necessary for trails and stormwater management facilities in accordance with Section 906.D.(3), or to remove invasive plant species.

B. Ownership Options for Open Space and Common Facilities. Subject to permanent conservation restrictions, the following methods may be used, either individually or in combination, to own open space and common facilities. Open space shall be initially offered for dedication to the Borough. Open space and common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this Section, and then only when there is no decrease in the amount of total open space in the overall development.

- (1) Fee Simple Dedication to the Borough. The Borough may, but shall not be required to, accept dedication in the form of fee simple ownership of open space. There shall be no cost to the Borough for acceptance of such dedication. Where the Borough accepts dedication of open space that contains improvements, Borough Council may require the posting of financial security to ensure the structural integrity as well as the functioning of said improvements for a term not to exceed eighteen (18) months from the date of acceptance of dedication. The amount of financial security shall not exceed the actual cost of installation of said improvements plus fifteen (15) percent. The Borough shall have the option of providing public access to such open space.

- (2) Condominium Ownership. The designated open space and associated facilities may be held in common by the dwelling unit owners as a condominium, the documents for which shall be approved by the Borough Council. Such condominium documents shall be in conformance with the Pennsylvania Uniform Condominium Act of 1980, as amended. All common open space shall be "common elements" or "limited common elements." To the degree applicable, condominium documents shall comply with the provisions of Subsection (3) below. Condominium documents shall be recorded with the Final Subdivision and Land development plans. At the time of Tentative Plan submission, the applicant shall provide draft condominium documents with sufficient detail to demonstrate feasible compliance with this Section.
- (3) Homeowners' Association. Open space and common facilities may be held in common ownership by a homeowners' association. The association shall be formed and operated under the following provisions:
- (a) The applicant shall provide the Borough with a description of the association, proof of incorporation of the association, a copy of its bylaws, and satisfactory proof of adoption thereof, a copy of the declaration of covenants, easements or restrictions or similar document(s) regulating the use of the property and setting forth methods for maintaining the open space.
 - (b) The association shall be organized by the owner or applicant and operated with financial subsidy from the owner or applicant before the sale of any lots within the development.
 - (c) Membership in the association shall be mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from applicant to the homeowners shall be identified.
 - (d) The association shall be responsible for maintenance of and insurance on open space owned by the association, enforceable by liens placed by the homeowners' association. Maintenance obligations also may be enforced by the Borough, which may place liens to recover its costs. Any governmental body with jurisdiction in the area where the development is located may place liens on the association members' properties to collect unpaid taxes.

- (e) The members of the association shall share equitably the costs of maintaining open space owned by the association. Shares shall be defined within the association bylaws or declaration. Association dues shall be structured to provide for both annual operating costs and to cover projected long-range costs relating to the repair of any capital facilities, which shall be deposited in a fund reserved for such purposes.
 - (f) In the event of a proposed transfer, within the ownership options permitted herein, of open space by the homeowners' association, or of the assumption of maintenance of such land by the Borough, notice of such action shall be given to all members of the association no less than 30 days prior to such event.
 - (g) The association shall have or hire adequate personnel to administer and properly and continually maintain the common facilities and open space.
 - (h) Homeowners' association documentation approved by the Borough demonstrating compliance with the provisions herein shall be recorded with the Final Plan and proof of recording thereof shall be provided to the Borough prior to the issuance of any building permits for the property. At the time of Tentative Plan submission, the applicant shall provide draft homeowners' association documentation with sufficient detail to demonstrate feasible compliance with this Section.
- (4) Private, Non-Profit Organization. With the permission of the Borough, the applicant may transfer either fee-simple title of the open space or easements on the open space to a private, nonprofit organization recognized by the Borough, provided that:
- (a) The organization is acceptable to Borough Council, and is a bona fide organization with perpetual existence, which has among its primary purposes either the conservation of open space and natural resources, or holds existing easements on the site. In the latter case, transfer shall be limited to land with such existing easements.
 - (b) The conveyance contains appropriate provision for proper reversion or re-transfer in the event that the organization becomes unwilling or unable to carry out its functions.

- (c) The open space is permanently restricted against future subdivision and land development through a conservation easement and the Borough is given the ability to enforce these restrictions.
 - (d) A maintenance agreement acceptable to the Borough is entered into by the owner or applicant and the organization.
- (5) Dedication of Easements to the Borough. The Borough may, but shall not be required to, accept easements for public use of any portion or portions of open space. In such cases, the open space remains in the ownership of the condominium association, property owner, homeowners' association or private organization, while the easements are held in public ownership. In addition, the following regulations shall apply:
- (a) There shall be no cost of acquisition to the Borough.
 - (b) Any such easements for public use shall be accessible to the residents of the Borough.
 - (c) A satisfactory maintenance agreement shall be reached between the owner and the Borough.
- (6) Individual Private Ownership of Open Space. Up to thirty percent (30%) of the required open space may be included within one or more privately owned conservancy lots. Such open space shall be permanently restricted from future subdivision and land development through a conservation easement, except for those uses listed in Section 906.D. The Borough shall have the authority to enforce the restrictions.
- C. Maintenance of Open Space and Common Facilities. Unless otherwise agreed to by the Borough, the cost and responsibility of maintaining open space and common facilities shall be borne by the property owner, condominium association, homeowners' association, or private, non-profit organization as outlined below.
- (1) Required Open Space and Common Facility Management Plan. The applicant shall provide a plan for the long term management of the open space and common facilities.

- (a) Open Space Management Plan Information. Such a plan shall include a narrative discussion of the following items:
- i. The manner in which the designated open space and common facilities included therein will be owned and by whom it will be managed and maintained;
 - ii. The conservation and land management practices which will be used to conserve and perpetually protect the open space.
 - iii. The professional and personnel resources that will be necessary in order to maintain and manage the property;
 - iv. The nature of public or private access that is planned for the open space; and
 - v. The source of funds that will be available for such management, preservation and maintenance on a perpetual basis.
 - vi. At the Borough's discretion, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for up to one year.
- (b) At the time of Tentative Plan submission, the applicant shall provide a draft open space and common facilities management plan with sufficient detail to demonstrate feasible compliance with the provisions required under this Section.
- (c) The management plan shall be recorded with the Final Plan in the office of the Recorder of Deeds of Delaware County.
- (d) The Borough Council may require as a condition of subdivision and/or land development approval that appropriate management contracts be established as evidence of the ability to adhere to the provisions of the approved management plan.

- (e) In order to allow for the changing needs inherent in the perpetual management of land, the management plan shall contain a provision to the effect that it may be changed by written application from the owner of the open space and common facilities to the Borough Council. The application shall be acted upon within 90 days. Review of such application shall take into account whether:
 - i. The proposed change is feasible and is consistent with the purposes of preservation of open space set forth in this Section and with the approved Final Plan.
 - ii. The plan for such change avoids a likelihood of the obligation for management and maintenance of the open space or common facilities falling upon the Borough without the consent of the Borough Council.

Notice of approval or disapproval shall be sent to the applicant within 10 days of the expiration of the 90 day review period.

- (2) Failure to Maintain Open Space and Common Facilities and Corrective Action. Upon default by any owner, homeowners' association, private, non-profit organization, or other entity responsible for maintenance of open space and/or associated common facilities, where such maintenance is required under the terms of the open space and common facilities management plan, homeowners' association or condominium documents, any subdivision and/or land development plan for the property, the zoning approval for the property, or under any applicable requirements of any Borough ordinances, permits or approvals, or where such maintenance is otherwise necessary to abate a nuisance, emergency, hazard or other condition threatening persons or property or the public health, safety or welfare, the Borough may, but shall not be obligated, to take the following actions:
 - (a) Upon thirty (30) days advance written notice to the individual, association or entity responsible for such maintenance (or any such lesser period as may be specified in the notice in instances of emergency) and the failure of the responsible individual, association or entity within such thirty (30) day period (or such lesser period in the event of an emergency) to perform the necessary maintenance and otherwise remedy the condition set forth in the Borough's notice, to enter upon the open space and/or common facilities, accessing the same through any other lands of such individual, association or entity, as may be necessary, to perform such maintenance and take any other action necessary to correct the condition provided in the Borough's notice.

- (b) Any and all costs incurred by the Borough in connection with such notice and maintenance shall be paid by the responsible individual, association or entity within ten (10) days after written demand by the Borough. Upon failure of the responsible individual, association or entity to pay such costs by the time required, there shall be added thereto interest at the rate of six (6) percent per annum as well as all costs incurred by the Borough in collection thereof.
- i. All such costs of maintenance, remediation, notices, and collection, including court costs and attorney's fees, shall constitute a municipal lien and be enforceable as such against the responsible individual, association or entity.
 - ii. Such lien shall extend to all property of such individual, association or entity within the development containing the affected open space.
 - iii. In the case of an association, such lien shall apply, pro rata, against all lot owners who are members of the association, in addition to applying to the association itself.-
 - iv. Such lien shall be filed by the Borough in the Court of Common Pleas of Delaware County.

Section 913. Open Space and Common Facilities Performance Bond.

Where intended as common or public amenities, all landscape improvements, plantings, access ways, and common facilities shall be provided by the applicant. A performance bond or other security acceptable to the Borough shall be required to cover costs of installation of such improvements. The performance bond or other security shall be in the same form and adhere to the same conditions as otherwise required for proposed improvements by the Rose Valley Borough Subdivision Ordinance.

Section 914. Development in Stages.

A Planned Residential Development may be developed in stages provided the following standards are met:

- A. The application for tentative approval covers the entire development.

- B. The location and approximate time of construction of each stage is clearly marked on the development plan, including a schedule for the phased construction of all improvements.
- C. At least twenty-five percent (25%) of the dwelling units in the development plan are included in each stage.
- D. A restrictive covenant shall be placed in the deed to the entire parcel of land providing that, in the event the Planned Residential Development is abandoned with less than all the stages completed, the density of the entire parcel, including that portion still under the Planned Residential Development, shall not exceed the density permitted in Section 905.
- E. Performance and maintenance guarantees shall be posted in order to guarantee the completion and maintenance of improvements for each stage and applicable to complete shared improvements and common facilities as set forth in Section 913 herein and Section 506.C of the Subdivision Ordinance.

Section 915. Overview of Procedures

- A. Required and Optional Steps. Steps 1-4 and 6-7 below are required. Step 5 (Sketch Plan Submission and Review) is optional, but strongly encouraged as an important, valuable and highly recommended step that will speed the review process and may result in lower costs for the project. These steps shall be followed sequentially, and may be combined only at the discretion of the Borough:
 - (1) Pre-Application Meeting.
 - (2) Existing Resources and Site Analysis Plan.
 - (3) Site Visit.
 - (4) Pre-Sketch Plan Conference.
 - (5) Sketch Plan Submission and Review (optional).
 - (6) Tentative Plan Submission and Review, Council Action.
 - (7) Final Plan Submission and Review, Council Action.
- B. Pre-Application Meeting. The Planning Commission (and/or its planning consultant, if applicable) and other appropriate Borough representatives, shall meet with the applicant to introduce the applicant to the Borough's zoning and subdivision regulations and procedures, to discuss the applicant's objectives, and to schedule site visits, meetings and plan submissions as described below. Applicants are encouraged to present the Existing Resources and Site Analysis Plan at this meeting.
- C. Existing Resources and Site Analysis Plan. The applicant shall submit an Existing Resources and Site Analysis Plan prepared in accordance with the requirements contained in Section 806.C of the Subdivision Ordinance. The purpose of this key submission is to familiarize officials with existing conditions on the applicant's tract and within its immediate vicinity, and to provide a complete and factual reference for them in making a site visit. This plan shall be provided prior to or at the site visit, and

shall form the basis for the development design as shown on the sketch plan (or on the Tentative Plan, if the optional sketch plan is not submitted).

- D. Site Visit. After preparing the Existing Resources and Site Analysis Plan, the applicant shall arrange for a site visit of the property by the Planning Commission and other appropriate Borough officials, and shall distribute copies of said site analysis plan prior to or at the site visit. The applicant and the site designer are encouraged to accompany the Planning Commission. The purpose of the visit is to familiarize local officials with the property's existing conditions and special features, to identify potential site design issues, and to provide an informal opportunity to discuss site design concepts, including the general layout of open space, and potential locations for proposed buildings and street alignments. Comments made by Borough officials or their staff and consultants shall be interpreted as being only suggestions. It shall be understood by all parties that no formal recommendations can be offered, and no official decisions can be made, at the site visit.

- E. Pre-Sketch Plan Conference. Following the site visit and prior to the submission of a sketch plan, the applicant shall meet with the Planning Commission to discuss the findings of the site visit and to develop a mutual understanding on the general approach for subdividing and/or developing the tract in accordance with the Four-Step Design Process described in Section 801.B of the Subdivision Ordinance. At the discretion of the Planning Commission, this conference may be combined with the site visit.

- F. Sketch Plan Submission and Review. A sketch plan is strongly encouraged for all Planned Residential Developments. Such plans provide opportunity for the applicant to ask questions about topics such as interpretation of ordinance language, potential variance or waiver requests, and conceptual design issues. The sketch plan also provides the Borough with an opportunity to become acquainted with the project and express concerns that may surface about such issues as ordinance compliance and community impact. Sketch plans are for informal discussion only; submission of a sketch plan does not constitute formal filing of a plan with the Borough, and shall not commence the statutory review period as required by the Municipalities Planning Code. The procedures for submission of a sketch plan are set forth in Section 1516 and plan content requirements are set forth in Section 805 of the Subdivision Ordinance.

- G. Tentative Plan Submission and Review. The Tentative Plan submission and review phase begins with the Borough acceptance of the applicant's submission of a land development application and ends with tentative approval, tentative approval with conditions, or disapproval of the plan by the Borough Council. Between these two events is an iterative process where a number of agencies review the plan and offer comments, the applicant responds to those comments and takes corrective action and, in some cases, the revised plans are again subjected to agency review. The length of that review process depends chiefly upon two factors. First, whether the submitted plan is fully responsive to Borough and other agency ordinances and requirements. Second, whether the information on the plan is accurate and complete. The Tentative Plan represents a design that is likely to be 95 percent complete, with respect to building and open space design, with infrastructure located, but not yet fully engineered. The procedures for submission of a Tentative Plan are set forth in Section

1517 and plan content requirements are set forth in Section 806 of the Subdivision Ordinance.

- H. Final Plan Submission and Review. The purpose of the Final Plan is to enable the Borough to determine whether or not all aspects of a proposed Planned Residential Development conform to Borough standards and conditions, and to provide a means to ensure that required improvements are guaranteed prior to official approval and recording of the plan. The procedures for submission of a Final Plan are set forth in Section 919 and plan content requirements are set forth in Section 807 of the Subdivision Ordinance.

Section 916. Sketch Plan Submission and Review.

- A. Prior to official submittal of a Tentative Plan, an informal sketch plan may be submitted for informal discussion. This step is optional, but strongly encouraged as an important and highly recommended step that may speed the review process and may result in lower costs for the project. The sketch plan diagrammatically illustrates initial thoughts about a conceptual layout for open space, house sites, streets and other infrastructure, and shall be based closely upon the information contained in the Existing Resources and Site Analysis Plan. The sketch plan shall be designed in accordance with the Four-Step Design Process described in Section 801.B of the Subdivision Ordinance and with the design review standards listed in Subsection C below.
- B. Thirteen (13) copies of a sketch plan, meeting the requirements set forth in Section A above, shall be submitted to the Borough Manager during business hours for distribution to the Borough Council (5), the Planning Commission (5), the Borough Planner (1), the Borough Engineer (1) and the Delaware County Planning Department (1) at least seven (7) days prior to the Planning Commission meeting at which the sketch plan is to be discussed.
- C. The sketch plan shall be submitted to the Delaware County Planning Department for informal comment.
- D. The Planning Commission shall review the sketch plan in accordance with the criteria contained in this ordinance and with other applicable ordinances of the Borough. Their review shall informally advise the applicant of the extent to which the proposed subdivision and/or land development conforms to the standards relevant to Planned Residential Development and may suggest possible plan modifications that would increase its degree of conformance. Their review shall include but is not limited to:
- (1) The location of all areas proposed for land disturbance (streets, foundations, yards, utilities, storm water management areas, etc.) with respect to natural and cultural features as identified on the applicant's Existing Resources and Site Analysis Plan;
 - (2) The potential for street connections with existing streets, other proposed streets, or potential developments on adjoining parcels;
 - (3) The location of proposed access points along the existing road network;
 - (4) The proposed building density and impervious coverage;

- (5) The compatibility of the proposal with respect to the objectives and policy recommendations of the Multi-Municipal Comprehensive Plan; and
 - (6) Consistency with all other applicable sections of the Zoning Ordinance, Subdivision Ordinance, Environmental Ordinance and Floodplain Ordinance.
- E. The Planning Commission shall submit its written comments to the applicant and the Borough Council.
- F. The Planning Commission may request the applicant to submit several drafts of the sketch plan to ensure that its comments have been properly incorporated into the revised plan.

Section 917. Tentative Plan Application Procedures.

- A. Filing Fee. The application for tentative approval of a Planned Residential Development shall be filed by the applicant with the Borough Manager. A non-refundable fee, to be established by Borough resolution, shall be paid upon filing of the application. A minimum deposit and additional deposits shall be made from time to time as requested by the Borough to be applied against the expenses of processing the application, not to exceed actual expenses incurred by the Borough.
- B. Documentation Required. The application for tentative approval shall include documentation and plans illustrating compliance with all of the standards for Planned Residential Development set forth in this Ordinance and Article 8 of the Subdivision Ordinance. Additional information may be required by the Borough when deemed important to properly review the site and proposed development. The applicant shall complete and sign the application form provided by the Borough. The applicant shall identify the name, address, and telephone number of the record holder of legal title to the land involved (if different from the applicant), the nature of the applicant's interest in the land (whether holder of legal or equitable title or otherwise), the name, address and telephone number of the agent, if any. No application shall be deemed filed unless all requirements have been met and all fees paid in full.
- C. Agency Reviews.
- (1) The applicant shall submit at least thirteen (13) copies of all required plans and information to the Borough Manager. The Borough Manager shall thereafter distribute copies of the plans to all appropriate agencies including, but not limited to, the Borough Planning Commission, the Borough Engineer, the Delaware County Planning Commission, the Delaware County Health Department, and the Delaware County Conservation District.
 - (2) All reviews specified in Subsection (1) above shall be forwarded to the Borough within thirty (30) days of referral. The Borough Planning Commission shall forward to the Borough Council copies of reports received from the County Planning Commission, Borough Engineer, and all other reviewing agencies, together with its own review and recommendations within forty-five (45) days of referral or at least five (5) days prior to the public hearing to be held by the Borough Council on the tentative approval

application, whichever shall occur first. Copies of such reports shall also be furnished to the applicant not less than five (5) days prior to the public hearing to be held by the Borough Council.

D. Public Hearings.

- (1) Within sixty (60) days after the filing of an application for tentative approval of a Planned Residential Development, a public hearing pursuant to public notice on said application shall be held by the Borough Council in the manner prescribed in the Municipalities Planning Code for the enactment of an amendment to a zoning ordinance. The Council President, or in his absence, the acting President, may administer oaths and compel the attendance of witnesses. All testimony of witnesses at any hearing shall be given under oath and every party of record at a hearing shall have the right to cross-examine adverse witnesses.
- (2) A verbatim record of the hearing shall be made by the Borough Council whenever such records are requested by any party to the proceedings, but the cost of making and transcribing such a record shall be borne by the party requesting it and the expense of copies of such record shall be borne by those who wish to obtain such copies. All exhibits accepted in evidence shall be identified and duly preserved or, if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record.
- (3) The Borough Council may continue the hearing from time to time, and may refer the matter back to the Borough Planning Commission for a report, provided, however, that in any event, the public hearing or hearings shall be concluded within sixty (60) days after the date of the first public hearing.

E. Findings.

- (1) The Borough Council, within sixty (60) days following the conclusion of the public hearing provided for in this Article, shall, by official written communication to the applicant, either:
 - (a) Grant tentative approval to the development plan as submitted;
 - (b) Grant tentative approval subject to specified conditions not included in the development plan as submitted; or
 - (c) Deny tentative approval to the development plan.
- (2) Failure to so act within said period shall be deemed to be a grant of tentative approval of the development plan as submitted. In the event, however, that tentative approval is granted subject to conditions, the applicant may, within thirty (30) days after receiving a copy of the official written communication of the Borough Council, notify Borough Council of their refusal to accept all said conditions, in which case, the Council shall be deemed to have denied tentative approval of the development plan. In the event the applicant does not, within said period, notify the Council of their refusal to accept all said

conditions, tentative approval of the development, with all said conditions, shall stand as granted.

- (3) The grant or denial of tentative approval by official written communication shall include not only conclusions, but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without conditions, or for the denial, and said communication shall set forth with particularity in what respects the development plan would or would not be in the public interest including but not limited to findings of fact and conclusions on the following:
 - (a) In those respects in which the development plan is or is not consistent with the goals and objectives of the Multi-Municipal Comprehensive Plan;
 - (b) The extent to which the development plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest;
 - (c) The adequacy or inadequacy of the purpose, location, amount and ownership of the open space, as related to the proposed density and type of residential development, the reliability of the proposals for maintenance and conservation of open space and common facilities;
 - (d) The physical design of the development plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;
 - (e) The relationship, beneficial or adverse, of the proposed development to the neighborhood in which it is proposed to be established; and
 - (f) In the case of a development plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents of the Planned Residential Development in the integrity of the development plan.

- (4) In the event a development plan is granted tentative approval with or without conditions, the Council shall set forth in the official written communication the time within which an application for final approval of the development plan shall be filed, or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part thereof shall be filed. Except upon the consent of the applicant, the time so established between grant of tentative approval and an application for final approval shall not be less than three (3) months and, in the case of developments over a period of years, the time between applications for final approval of each part of a plan shall be not less than twelve (12) months.

Section 918. Status of Plan after Tentative Approval.

- A. The official written communication provided for in this Article shall be certified by the Borough Manager and shall be filed in the Borough office, and a certified copy shall be mailed to the applicant. Where tentative approval has been granted, the same shall be noted on the Borough Zoning Map.
- B. Tentative approval of a development plan shall not qualify the Planned Residential Development for recording nor authorize development or the issuance of any building permits. A development plan which has been given tentative approval as submitted, or which has been given tentative approval with conditions which have been accepted by the applicant (and provided that the applicant has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the Borough pending an application or applications for final approval, without the consent of the applicant, provided an application for final approval is filed, or, in the case of development over a period of years, provided applications are filed, within the periods of time specified in the official written communication granting tentative approval.
- C. In the event that a development plan is given tentative approval and thereafter, but prior to final approval, the applicant shall elect to abandon said development plan and shall so notify the Borough Council in writing, or in the event the applicant shall fail to file application or applications for final approval within the required period of time or times, as the case may be, the tentative approval shall be deemed to be revoked and all the portion of the area included in the development plan for which final approval has not been given shall be subject to those Borough ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted on the Borough Zoning Map and in the records of the Borough Manager.

Section 919. Application for Final Approval.

- A. Application. An application for final approval may be for all the land included in a Development Plan or, to the extent set forth and permitted in the tentative approval, a section thereof. Such application shall be made to the Borough Manager and within the time or times specified in the decision granting tentative approval. If the application for final approval is in compliance with the tentatively approved development plan and any specified conditions attached thereto, a public hearing need not be held in connection therewith.
- B. Requirements from Subdivision Ordinance. The application for final approval shall include a Final Plan meeting the requirements of Article 8 of the Subdivision Ordinance. If the Final Plan is drawn in two or more sheets, a key map showing the location of the several sections shall be placed on each sheet.
- C. Phasing. In the case of a Planned Residential Development proposed to be developed over a period of years, Final Plan requirements shall apply only to the section for which final approval is being sought. Provided, however, that the Final Plan presented for the section to be developed must be considered as it relates to information regarding densities and types of dwelling units, location of common open space, sanitary sewer and water distribution systems, and street systems presented for the entire development in the application for tentative approval.
- D. Proof of Finance. Final approval shall not be granted for any proposed Planned Residential Development unless the applicant submits satisfactory proof to the Borough Council that arrangements have been made to adequately finance the development and construction of the Planned Residential Development.
- E. Performance and Maintenance Guarantees. In order to guarantee the completion and maintenance of improvements, no development plan shall be finally approved until Sections 509 through 511 of the Pennsylvania Municipalities Planning Code and Section 506 of the Subdivision Ordinance are complied with.
- F. Review Procedures for Final Approval.
- (1) In the event the application for final approval has been filed, together with all drawings, specifications, and other documents in support thereof, and as required by this Article and the official written communication of tentative approval, the Borough shall, within forty-five (45) days from the date of the next regular meeting of the Borough Council or the Planning Commission (whichever first reviews the application) which follows the date the application is filed, grant such plan final approval. Should the next regular

meeting, however, occur more than 30 days following the filing of the application, the 45-day period shall be measured from the 30th day following the date the application has been filed.

- (2) If the Final Plan contains variations from the development plan given tentative approval, the Borough Council may refuse to grant final approval and shall, within forty-five (45) days from the date of the next regular meeting of the Borough Council or the Planning Commission (whichever first reviews the application) which follows the date the application is filed, so inform the applicant, in writing, of such refusal, setting forth in said notice the reasons why one or more of said variations are not in the public interest. Should the next regular meeting, however, occur more than 30 days following the filing of the application, the 45-day period shall be measured from the 30th day following the date the application has been filed.

In the event of such refusal, the applicant may either:

- (a) Re-file the application for final approval without the objectionable variations:
- (b) File a written request with the Borough Council that it hold a public hearing on their application for final approval.

If the applicant wishes to take either such alternate action they may do so at any time within which they shall be entitled to apply for final approval, or within thirty (30) additional days if the time for applying for final approval shall have already passed at the time when the applicant was advised that the development plan was not in substantial compliance. In the event the applicant fails to take either of these alternate actions within the time required, they shall be deemed to have abandoned the development plan. Any such public hearing shall be held pursuant to public notice within thirty (30) days after request for the hearing is made by the applicant, and the hearing shall be conducted in the same manner and to the same extent as is prescribed in this Ordinance for public hearings on applications for tentative approval. Within thirty (30) days after the conclusion of the hearing, the Borough Council shall, by official written communication, either grant final approval to the development plan or deny final approval. The grant or denial of final approval of the development plan shall, in cases arising under this subsection, be in the form and contain the findings required for an application for tentative approval set forth in Section 917.

- (3) A development plan, or any part thereof, which has been given final approval shall be so certified without delay by the Borough Council and shall be filed of record by the applicant within ninety (90) days after final approval has been granted in the Delaware County office of the Recorder of Deeds before any development shall take place in accordance therewith. Pending completion within a period of five (5) years of said Planned Residential Development or of that part thereof, as the case may be, that has been finally approved, no modification of the provisions of said development plan, or part thereof, as finally approved, shall be made except with the consent of the applicant.

- (4) In the event that a development plan, or a section thereof, is given final approval and thereafter the applicant shall abandon such plan or the section thereof that has been finally approved, and shall so notify the Borough Council in writing; or, in the event the applicant shall fail to commence and carry out the Planned Residential Development or of that part thereof, within a period of five (5) years after final approval has been granted, no development or further development shall take place on the property included in the development plan until after said property is reclassified by enactment of an amendment to this Ordinance in the manner prescribed for in such amendments in Section 609 of the Municipalities Planning Code.

Section 920. Enforcement and Modification of Provisions.

The enforcement and modification of the provisions of the development plan as finally approved, whether those are recorded by plat, covenant, easement, or otherwise, shall be subject to the following provisions:

- A. The provisions of the development plan relating to 1) the use, bulk and location of buildings and structures; 2) the quantity and location of common open space; and 3) the intensity of use or the density of residential units shall run in favor of the Borough and shall be enforceable in law or in equity by the Borough, without limitation on any powers of regulation otherwise granted the Borough by law.

- B. All provisions of the development plan, with the exception of the provisions referenced in Section A above, shall run in favor of the residents of the Planned Residential Development, but only to the extent expressly provided in the development plan and in accordance with the terms of the development plan, and to the extent said provisions, whether recorded by plan, covenant, easement or otherwise, may be enforced by law or equity by said residents acting individually, jointly, or through an organization designated in the development plan to act on their behalf; provided, however, that no provisions of the development plan shall be implied to exist in favor of residents of the Planned Residential Development except

as to those portions of the development plan which have been finally approved and have been recorded.

- C. All those provisions of the development plan authorized to be enforced by the Borough under this Section may be modified, removed, or released by the Borough, except grants or easements relating to the service or equipment of a public utility, subject to the following conditions:
- (1) No such modification, removal or release of the provisions of the development plan by the Borough shall affect the rights of the residents of the Planned Residential Development to maintain and enforce those provisions, at law or equity, as provided in this Section.
 - (2) No modification, removal or release of the provisions of the development plan by the Borough shall be permitted except upon a finding by the Borough Council following a public hearing hereon pursuant to public notice called and held in accordance with the provisions of this Article, that the same is consistent with the efficient development and preservation of the entire Planned Residential Development, does not adversely affect either the enjoyment of land abutting upon or across the street from the Planned Residential Development or the public interest, and is not granted solely to confer a special benefit upon any person.
- D. Residents of the Planned Residential Development may, to the extent and in manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan, but no such action shall affect the right of the Borough to enforce the provisions of the development plan in accordance with provisions of this Section.

Section 921. Administration.

The provisions of the Rose Valley Borough Code governing the issuance of building permits, certificates of use and occupancy, and fees shall be fully applicable to Planned Residential Developments insofar as the provisions thereof are consistent with the provisions of this Article and the conditions of final approval.

Section 922. Appendix A: PRD Historic Resource Density Bonus.

The properties listed below* may qualify for a density bonus as part of a Planned Residential Development as described in Section 905.D.

5 Applebough Lane, “Good Intent,” (ca. 1903)

211 Brookhaven Road, "Old Union Church and Graveyard" (1813)
Governor's Lane, "Schoenhaus," (1862-1904 remodeled)
Governor's Lane, "Schoenhaus," Watertower (ca. 1860)
Governor's Lane, "Schoenhaus," Office (1862-1904 remodeled)
Governor's Lane, "Schoenhaus Ruins," (ca. 1860)
7 Hilltop Road, "Sister House to Dogwood," (ca. unknown)
11 Hilltop Road, "Attig Residence," (1927-28)
12 Hilltop Road, "Medina Residence," (ca. 1929)
15 Hilltop Road, "Wareham Residence, (ca. 1929)
5 Old Mill Lane, "Bishop White House," (ca. 1690, remolded ca. 1903)
1 Old Mill Lane, "Gate House," (ca. 1860)
9 Old Mill Lane, "The Old Mill," (Borough Hall and ruins) (1789)
5 Orchard Lane, "Orchard House," (1840-1904 remodeled)
1 Porter Lane, "Harrison Residence," Rose Valley Improvement Co. (1915)
4 Porter Lane, "Siatto Residence," Rose Valley Improvement Co. (1915)
221 Possum Hollow Road, "Shay Manor," (1923)
222 Possum Hollow Road, John Maene #2 (1910)
305 Possum Hollow Road, "Ellinore Abbott House," (ca. 1910)
28 and 32 Prices Lane, "Water Tower House," (ca. 1914)
2 Rabbit Run, "Prairie School Architecture of William Grey Purcell," (1917)
3 Rabbit Run, "Dogwood House," (1925)
26 Rabbit Run, "Randal Vernon House," (Pre-1700)
20 Rose Valley Road, "Gothwold," (1893)
41 Rose Valley Road, "Thunderbird Lodge," (1860's-remodeled1904)
44 Rose Valley Road, "Carmedeil," (ca. 1880)
48 Rose Valley Road, "Rose Hedge," (ca. 1860-1906 remodeled)
52 Rose Valley Road, "Hedgerow Theatre," (1840)
60 Rose Valley Road, "Quarry House," (1925)
68 Rose Valley Road, "Pee Wee Hill," (ca. 1880-remodeled 1906)
71 and 73 Rose Valley Road, "Millworker Residences," (1860)
74, 76, 78 Rose Valley Road, "Guest House," (ca. 1860-1901 remodeled)
140 Rose Valley Road, "Hedgerow House," (ca. unknown)
1 Roylencroft Road, "Roylencroft," (1909)
8 School Lane, "Owens Stevens House (1920)
18 School Lane, "School in Rose Valley," (ca. 1928)

6 Todmorden Lane, "Todmorden Hall," (1787)

6 Tulip Lane, "John Maene 1" (1905)

30 Vernon Lane, "Fireproof House," (ca. 1910)

6 Wychwood Lane, "Wychwood," (1925)

* This list is based on the Comprehensive Historic Resources Survey of Rose Valley Borough, Delaware County Planning Department, 1981.

ARTICLE X

SIGNS

Section 1000. Definitions. For the purposes of this Article, the following terms shall have the meanings indicated:

BACKGROUND AREA OF A SIGN. The entire area of a sign upon which copy can be placed. In computing the area of a sign background, only that face or faces that can be seen from any one direction at one time shall be counted.

BILLBOARD. An off-premises sign that directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than where such sign is displayed.

FREE-STANDING SIGN. A sign that is erected free and clear of a building and that is supported by its own structure.

PORTABLE SIGN. Any sign designed to be transported from one place to another.

SIGN. Any name, nameplate, billboard, poster panel, display, illustration, structure or any other type of attention-attracting device used for visual communication that is affixed, painted or represented directly upon a building or other surface, including free-standing posts or stanchions, for the purpose of bringing the subject matter of such sign to the attention of the public, or for identifying a business or structure.

SIZE. The background area of a sign or the copy area of a sign, whichever is the greater.

TEMPORARY SIGN. Any sign displayed in connection with an event for a period not exceeding twenty-four (24) hours prior to and following a specific event that the temporary sign advertises.

Section 1001. General Requirements. Unless otherwise provided in this chapter, the following requirements apply to all signs in the Borough:

- A. All signs, except for Temporary Signs and Real Estate Signs as described in Section N below, shall be required to have a permit indicating compliance with this chapter. No sign, except for Temporary and Real Estate Signs, shall be erected, altered or extended until such permit has been issued. Applicant must submit a drawing of any proposed sign showing a scaled layout of all text and graphics in the context of the building and/or window(s) where the sign(s) will be placed and a site plan showing the proposed location of the sign.
- B. No roof sign shall be permitted.
- C. No sign, except those placed by an authorized governmental agency, shall be placed on a public right of way.
- D. No sign shall interfere with traffic, be confused with or obstruct the view or effectiveness of any official traffic sign, traffic signal or traffic marking or obstruct the sight distance of motorists or pedestrians.
- E. This chapter shall not apply to traffic control signs, parking place designations and information signs located on off-street parking lots.
- F. No portable signs are allowed.
- G. No sign shall use flashing lights, animation, shimmering pieces or moving parts.
- H. No sign shall be attached to a tree or utility pole.

- I. Billboards are prohibited.
- J. Wind actuated signs are prohibited.
- K. All signs must be legible, well painted, in good repair, properly maintained and sturdy enough to permit persons working on the signs to do so safely.
- L. Signs no longer in use must be removed by the owner.
- M. External lights may be used to illuminate signs. Such lights must be white in color and may not shine onto adjoining property or in the eyes of motorists or pedestrians. Internally lit and neon signs are prohibited.
- N. Real Estate Signs may be erected and maintained to advertise the sale or rental of the property upon which they are erected, provided, (1) the size of any such sign is not in excess of six (6) square feet and (2) not more than one sign is placed upon the property in single and separate ownership, unless such property fronts upon more than one street, in which event one sign may be erected on each frontage. All signs relating to the sale or rental of a property must be removed within twenty-four (24) hours after the sale or rental is consummated.
- O. All signs not specifically allowed are prohibited.

Section 1002. Signs in Residential Districts.

- A. No advertising sign, placard, directional sign or poster shall be erected or displayed in any Residential District, except as permitted in Sections B through G below.
- B. One sign identifying the office or studio of a professional such as a physician, attorney, dentist, accountant, architect, engineer, musician, psychologist or similar

professional, provided said office or studio has been duly authorized as a special exception by the Zoning Hearing Board. Such sign shall not exceed one (1) square foot in copy area and two (2) square feet in background area and shall state only the name and type of business.

- C. One sign designating the name of a community may be posted at the entrance to that community provided that each sign is incorporated into an architectural element, such as a pillar or column, and each sign does not exceed three (3) square feet in background area and only displays the name of the community.
- D. Signs of contractors and designers may be erected and maintained during the period such persons are performing work on the premises on which such signs are erected, provided that the size of the sign does not exceed six (6) square feet and that the signs are removed promptly upon completion of the work.
- E. Signs erected by an owner or builder in connection with the active development of a premises may be erected upon the application and granting of a permit, provided that the size of any such sign is not in excess of twenty-four (24) square feet and that not more than one such sign is placed upon any individual lot or premises being developed. All such signs must be removed when the lot or the last lot within the premises is sold.
- F. Directional signs in connection with an open house for an active real estate listing may be placed only within forty-eight hours of the actual event and must be removed by the end of the day of the event.
- G. No advertising display on vehicles shall be permitted unless the tradesperson is servicing the property at which the vehicle is parked. In no event shall the vehicle with the advertising display be left on the premises continually for more than 24 hours.

Section 1003. Signs in Institutional Districts.

- A. Signs permitted in Residential Districts.

- B. A permanent ground or wall sign to identify an institution is permitted provided that no such sign shall exceed twenty-four (24) square feet. Theaters or churches are permitted a second ground sign to indicate current performances or services, provided that the size of this sign does not exceed sixteen (16) square feet.

- C. No more than two (2) off site directional signs not exceeding three (3) square feet in size are permitted, provided written permission is obtained from the owner of the property on which a directional sign is placed.

ARTICLE XI

WIRELESS COMMUNICATIONS FACILITIES

In recognition of the quasi-public nature of wireless communications systems and the Federal Telecommunications Act of 1996, the following regulations shall apply:

Section 1101. Purposes. The purpose of this article and the standards established herein is to govern the use, construction, and siting of wireless communications facilities so as:

- A. To accommodate the need for wireless communications facilities while regulating their location and number in the Borough and to ensure compliance with all applicable governmental regulations.

- B. To minimize any adverse visual effects of wireless communications facilities, antenna(s) and antenna support structures through proper design, siting and screening.

- C. To ensure the structural integrity of the antenna support structure through compliance with applicable industry standards and regulations.

- D. To encourage the joint use of any antenna support structure to reduce the number of such structures needed in the future.

- E. To promote the health, safety and welfare of the residents of the Borough.

Section 1102. Definitions. For the purposes of this Article, the following terms shall have the meanings indicated:

ANTENNA. A device used to collect and/or transmit wireless communications or radio signals, including panels, microwave dishes, and single poles known as "whips".

ANTENNA SUPPORT STRUCTURE. Any pole, telescoping mast, tower, tripod, lattice construction steel structure or any other structure which supports or has attached to it an antenna(s), but not including a structure, such as a building,

telephone pole or water tower, whose primary purpose is other than to support an antenna.

ANTENNA SUPPORT STRUCTURE HEIGHT. The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, including any antenna(s) affixed thereto. If the antenna support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna support structure height.

LAND SITE. A tract or parcel of land that contains a wireless communications facility and associated parking, which may include other uses associated with and ancillary to wireless communication transmission.

WIRELESS COMMUNICATIONS EQUIPMENT BUILDING. A building or cabinet in which electronic receiving, relay and/or transmitting equipment for a wireless communications facility is housed.

WIRELESS COMMUNICATIONS FACILITY. The antenna(s), antenna support structure, wireless communications equipment building, parking and/or other structures and equipment involved in receiving or transmitting wireless communications or radio signals.

Section 1103. Use Regulations. A wireless communications facility with an antenna or antennas is permitted by special exception in an Institutional District with a minimum lot area of 2 acres. Any special exception authorized hereunder shall only be granted if the applicant shall comply with all of the applicable provisions of this Article.

Section 1104. Standards For Wireless Communications Facilities.

All applicants seeking to construct, erect, relocate or alter a wireless communications facility shall comply with the following:

- A. Location and Height. The applicant shall demonstrate, using acceptable technological and documentary evidence, that the antenna(s) and/or antenna support structure must be located where proposed and at the height proposed in order to satisfy its function within the applicant's regional plan or grid system. The applicant shall also demonstrate that the antenna is no higher than the minimum height required to function satisfactorily. If the applicant proposes to build an antenna support structure (as opposed to mounting the antenna(s) on an existing building or structure), the applicant shall demonstrate that it has asked the owners of structures of suitable location and height within a one-quarter mile radius of the site proposed for permission to install the antenna(s) on those structures, and been denied. The Zoning Hearing Board may deny an application to construct a new antenna support structure if the applicant has not made a good faith effort to mount the antenna(s) on an existing structure. Only one antenna support structure shall be permitted per institution.

- B. Height Restrictions. An antenna that is attached to an existing building or structure shall not exceed the height of the existing building or structure by more than 15 feet. Notwithstanding anything contained herein to the contrary, no wireless communications facility height in excess of 100 feet shall be permitted.
- C. Setbacks From Base of Antenna Support Structure. If a new antenna support structure is constructed (as opposed to mounting the antenna on an existing building or structure), the minimum distance between the base of the antenna support structure and any property line or right-of-way line shall be the greatest of the following:
- (1) The minimum yard setback in the Institutional zoning district; or
 - (2) One hundred (100%) percent of the proposed antenna support structure height.

The minimum distance between the base of any guy wire anchors and any property line or right-of-way line shall equal forty (40%) percent of the proposed antenna support structure height.

The Zoning Hearing Board may reduce these setback requirements if the property owner on the other side of the affected property line, and/or the affected right-of-way owner, stipulates in writing their desire to have these requirements reduced as they pertain to their own property and/or right-of-way.

- D. Site Plan. The applicant shall provide a full site plan, showing all existing and proposed structures and improvements, including but not limited to the antenna(s), antenna support structure, building, fencing, landscaping, and means of ingress and egress. The plan shall include all necessary elevations and photo-overlays demonstrating the illustrated appearance of all facilities against actual photographic backgrounds in each of the four directions. The plan shall comply with all applicable requirements of a site plan as stated in the Borough's Sub-Division Ordinance.
- E. Antenna Support Structure Safety. The applicant shall demonstrate that the proposed antenna(s) and antenna support structure are designed and constructed in accordance with all applicable national building standards for such facilities and structures, including but not limited to the standards developed by the Electronics Industry Association, Institute of Electrical and Electronics Engineers, Telecommunications Industry Association, American National Standards Institute and Electrical Industry Association. The applicant shall demonstrate that the proposed wireless communications facility is designed in such a manner that no part of the facility will attract or deflect lightning onto adjacent properties.
- F. Report by Engineer. A structural engineer registered in Pennsylvania shall provide a report attesting to the proposed antenna support structure's ability to meet the

structural standards offered by either the Electronics Industry Association or the Telecommunications Industry Association, and attesting to the proper construction of the foundation and erection of the antenna support structure. For an applicant proposing to mount a wireless communications facility on an existing building or other structure, a structural engineer registered in Pennsylvania shall provide a report attesting that the proposed installation will not exceed the structural capacity of the building or structure, considering wind and other loads associated with the antenna location.

- G. Soil Report. In the case of a newly constructed antenna support structure, a soil report complying with the standards of Geotechnical Investigations, ANSI/EIA-222-F, as amended, shall be submitted to the Borough Engineer to document and verify the design specifications of the foundation for the antenna support structure, and anchors for the guy wires, if used.
- H. Additional Development Regulations. The following additional development regulations shall apply:
- (1) Sole use on a lot. A wireless communications facility is permitted as a sole use on a lot.
 - (2) Combined with another use. A wireless communications facility may be permitted on a property with an existing Institutional use, subject to the following conditions:
 - (a) The existing use on the property must be a permitted use or a lawful non-conforming use, and need not be affiliated with the wireless communications facility.
 - (b) Vehicular access to the wireless communications facilities shall, whenever feasible, be provided along the circulation driveways of the existing use. The applicant shall present documentation that the owner of the property has granted an easement for the proposed facility.
 - (3) An antenna(s) may be attached to an existing institutional building or structure subject to the condition that vehicular access to the wireless communications facility shall not interfere with the parking or vehicular circulation on the site for the principal use.
- I. Fencing. A security fence shall be required around the antenna support structure and other equipment, unless the antenna(s) is mounted on an existing building or structure. The security fence shall be a maximum of eight feet in height and maintained in proper condition. No barbed wire or razor wire fencing is permitted.

- J. Landscaping. The following landscaping shall be required to screen as much of a newly constructed antenna support structure, the fence surrounding the newly constructed antenna support structure, and any other ground level features (such as a building) as possible and in general, soften the appearance of the wireless communications facility. The Zoning Hearing Board may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the Antenna is mounted on an existing structure, and other equipment is housed inside an existing structure, landscaping shall not be required.
- (1) An evergreen screen shall be required to surround the antenna support structure. The screen can be either a hedge (planted 3 feet on center maximum) or a row of evergreen trees (planted 10 feet on center maximum). The evergreen screen shall be a minimum height of 6 feet at planting, and shall grow to a minimum of 15 feet at maturity.
 - (2) Existing vegetation on and around the land site shall be preserved to the greatest extent possible.
- K. Signs. No sign or other structure shall be mounted on the wireless communications facility, except as may be required by the FCC, Federal Aviation Administration (FAA) or other governmental agencies.
- L. Lighting. The antenna support structure shall meet all Federal Aviation Administration (FAA) regulations. No antenna support structure may be artificially lighted except when required by the FAA or other governmental authority. When lighting is required by the FAA or other governmental authority, it shall be oriented inward so as not to project onto surrounding properties. The applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities.
- M. Visual Appearance.
- (1) The antenna support structure shall be painted silver or have a galvanized finish or may be painted green up to the height of nearby trees to disguise its appearance. All wireless communications equipment, buildings and other accessory facilities shall be aesthetically and architecturally compatible with the surrounding environment to the extent possible.
 - (2) To the extent any building-mounted antenna is located on a flat-roofed building, such antenna shall be set back from the edge of the building on which it is located by at least 10 feet.
- N. Equipment Building. Any wireless communications equipment building shall comply

with the required yards and height requirements of the applicable zoning district for an accessory structure.

- O. Required Parking. The wireless communication facility shall be fully automated and not require any maintenance workers to be present on a full-time basis. Adequate parking shall be required for maintenance workers, with a minimum of two spaces provided.

- P. FCC License and Certificate of Insurance. The applicant shall submit a copy of its current Federal Communications Commission license; the name, address and emergency telephone number for the operator of the wireless communications facility; and a certificate of insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence covering the antenna support structure and communications antenna(s).

- Q. Proof of Inspection. The owner of an antenna support structure shall submit to the Borough Engineer proof of the annual inspection of the antenna support structure and antenna(s) by an independent professional engineer as required by the ANSI/EIA/TIA-222-F Code. Based upon the results of such an inspection, the Borough may require removal or repair of the wireless communications facility.

- R. Annual Report. In January of each year, the owner of any wireless communications facility shall pay the registration fee established from time to time by resolution of Borough Council and shall provide the Borough Manager with the following information:
 - (1) The name and address of the owner of the wireless communications facility and telephone number of the appropriate contact person in case of emergency.
 - (2) The name and address of the property owner on which the wireless communications facility is located.
 - (3) The location of the wireless communications facility by geographic coordinates, including the latitude and longitude.
 - (4) The output frequency of the transmitter.
 - (5) The type of modulation, digital format and class of service.
 - (6) Antenna(s) gain.
 - (7) The effective radiated power of the antenna(s).
 - (8) The number of transmitters, channels and antennas.

- (9) A copy of the owner's or operator's FCC authorization.
- (10) Antenna(s) height.
- (11) Power input to the antenna(s).
- (12) Distance to the nearest base station.
- (13) A certification signed by the owner or an officer of a corporate owner that the wireless communications facility complies with this article and with all applicable governmental regulations.

S. Interference. In the event the wireless communications facility causes interference with the radio or television reception of any township resident for a period of three continuous days, the resident or Borough Manager shall notify the operator of the facility of such interference and the applicant, at the operator's sole expense, shall thereafter ensure that any interference problems are promptly corrected.

T. Abandonment. The owner or operator of any wireless communications facility is required to notify the Borough immediately upon cessation and abandonment of the operation. Wireless communications facilities that are no longer licensed and active facilities shall be removed at the owner's expense within ninety days of the last date that the facility was licensed by the FCC.

U. Bond for Removal Costs. At the time of issuance of the permit for construction of the wireless communications facility, a bond or escrow account shall be posted with the Borough in an amount certified by the applicant's engineer and confirmed by the Borough engineer to be sufficient to cover the costs of removing such wireless communications facility and disposing of all its components, together with a financial security agreement authorizing the Borough to use the funds to remove the facility if the facility is abandoned, and further authorizing the Borough to place a lien on the premises in the event the escrow or bond is insufficient to cover the costs of removal and disposal. The financial security agreement shall be executed by both the applicant and the landowner, shall be in a form that is recordable in the Delaware County Office for the Recording of Deeds, and shall provide that its provisions run with the land. The Borough may, at its option, cause the agreement to be recorded in the Office for the Recording of Deeds or any other office of public record. At the time of filing of the annual report required in subsection (r) above, any new owner of the land or of the facility, as well as an organization utilizing the facility, shall reaffirm the validity of the financial security agreement and/or execute a new financial security agreement as may be required by the Borough Solicitor. If the Borough Zoning Officer shall find that an abandoned wireless communications facility has not been removed within ninety days of the cessation of its use, said officer shall give written notice to the

owner of the building and premises on which such facility is located. Removal of the facility shall be effected within 15 days after receipt of the notice. If such facility is not removed after the conclusion of such fifteen-day period, the Zoning Officer is hereby authorized to cause the antenna to be removed forthwith at the expense of the owner of the building or premises on which such antenna is located. If the escrow or bond is insufficient to cover the entire cost of removal and disposal, the Borough may place a lien upon the premises which may be collected in accordance with the rules for collection of municipal liens.

ARTICLE XII

APPLICATION AND PERMITS

Section 1200. Enforcement. It shall be the duty of the Borough Manager or his/her designee, and he/she is hereby given the power and authority, to enforce the provisions of this Ordinance.

Section 1201. Requirements. The Borough Manager, before granting any building permit, shall require that the application shall be accompanied by a plot plan containing all the information necessary to enable him to ascertain whether the proposed construction complies with the provisions of this Ordinance, the Borough Building and Plumbing Codes and other applicable Borough Ordinances.

Section 1202. Fees and Expenses. Permit fees covering costs to the Borough for plan reviews, permit issuance and inspections, and charges of the Borough Engineer and other professional consultants relating thereto, shall be established by Resolution of the Borough Council. No permit to begin work on any project shall be issued until the requisite fees and expenses have been paid.

ARTICLE XIII

ZONING HEARING BOARD

Section 1300. The Borough Council shall appoint a Zoning Hearing Board in conformity with the Borough Code, as amended, which shall have the following powers:

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the Borough Code, as amended, or of this Ordinance, and its supplements.
- B. To hear and decide applications for special exceptions to the terms of this Ordinance in such cases as are herein expressly provided for, in harmony with the general purpose and intent of this Ordinance, with power to impose appropriate conditions and safeguards.

- C. To hear and decide upon requests for variances from the terms of this Ordinance, and its supplements, as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of said Ordinance would result in unnecessary hardship, and so that the spirit of said Ordinance shall be observed and substantial justice done.

Section 1301. The Zoning Hearing Board shall adopt rules in accordance with the provisions of the Borough Code, the Pennsylvania Municipalities Planning Code and this Ordinance governing the manner of filing appeals or applications for special exceptions or variances from the terms of this Ordinance, and shall require the payment in advance of a deposit of Two Hundred Fifty Dollars (\$250.00) payable to the Borough, to cover the initial costs of the hearing before the Board and shall require such additional payments for costs as may be necessary when the prior deposit is consumed. Any portion of the deposit not expended shall be returned to the applicant. The Zoning Hearing Board shall not be required to act upon any appeal or application until the initial deposit is paid.

ARTICLE XIV

SPECIAL EXCEPTIONS

Section 1400. In those instances where this Ordinance provides that a special exception may be granted by the Zoning Hearing Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exception in accordance with such standards and criteria. An applicant for a special exception shall have the burden of establishing the following:

- A. That the application falls within the provision of the Ordinance which authorizes the right to seek a special exception;
- B. That allowance of the special exception will not be contrary to the public interest;
- C. That the proposed activity does not adversely affect the surrounding neighborhood;
- D. That the proposed activity can be accommodated by existing community facilities and utilities.

In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code.

Section 1401. In determining whether the allowance of a special exception is contrary to the public interest, the Board shall consider whether the application, if granted, will:

- A. Substantially increase traffic congestion;
- B. Increase the danger of fire or panic or otherwise endanger the public safety;
- C. Hinder, hamper or impede access of police, ambulance or fire-fighting equipment in an emergency;
- D. Overcrowd the land or create an undue concentration of population and vehicles;
- E. Impair an adequate supply of light and air to adjacent property;
- F. Be consistent with the surrounding zoning and uses;
- G. Unduly burden water, sewer, school, park or other public facilities.
- H. Otherwise adversely affect the public health, safety, morals or general welfare.

In each of the foregoing instances, the applicant's burden of proof shall include the duty of presenting credible evidence sufficient to persuade the Board that the applicant has satisfied the criteria specified.

If a protestant raises a specific issue related to the health, safety, morals or general welfare of the community, the applicant shall have the further burden to meet such objections and prove that the intended use would not adversely affect the health, safety and general welfare with respect to those matters raised by the protestant.

In determining whether to grant a special exception for educational use, the Board may consider only applications by the public school system and private educational institutions duly licensed and approved by the Pennsylvania Department of Education.

ARTICLE XV

VARIANCES

Section 1500. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant.

Section 1501. The Board may grant a variance provided the following findings are made where relevant in a given case:

- A. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary

hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood in which the property is located.

- B. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- C. That such unnecessary hardship has not been created by the applicant.
- D. That the variance, if authorized, will not alter the essential character of the neighborhood in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
- E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.

ARTICLE XVI

NON-CONFORMING USES AND STRUCTURES

Section 1600. Non-Conforming Use. A use whether of land or structure, which does not comply with the applicable use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment.

Section 1601. Non-Conforming Structure. A structure or part of a structure manifestly not designed to comply with the applicable use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment.

Section 1602. Subdivision. No premises shall hereafter be subdivided or reduced in size in such manner as to cause any premises or structure which now conforms to become non-conforming or to increase the degree of non-conformity of non-conforming premises.

Section 1603. Reconstruction of Non-Conforming Structures. A non-conforming structure which has been involuntarily damaged or destroyed by fire or other casualty may be rebuilt and used for the same purpose, PROVIDED:

- A. The destruction does not exceed seventy-five percent (75%) of the value of the structure as estimated by the Board of Fire Underwriters.
- B. Reconstruction of the structure is commenced within one year of the date of such damage and is carried through to completion within two years of the date of such damage, unless the Zoning Hearing Board shall authorize a special exception for an extension of this time limit.
- C. The reconstructed structure does not extend or increase the non-conformity of the original structure in height, area, volume or open spaces as required by this Ordinance.
- D. No structure, with the exception of a single family dwelling and/or an accessory building associated with a single family dwelling, which has been damaged or destroyed to an extent exceeding seventy-five percent (75%) of its value, shall be repaired or rebuilt except in conformity with the regulations of this Ordinance unless authorized as a special exception by the Zoning Hearing Board. A special exception shall not be granted if repairing or rebuilding the structure in compliance with this Ordinance is reasonably possible.
- E. Dwellings in residential districts which, at the effective date of this Ordinance, contain more than three (3) apartment units may not be rebuilt to include more than three (3) apartment units.

Section 1604. Change of Use. If a non-conforming use of a structure or land is voluntarily abandoned and ceases for a continuous period of one (1) year or more, subsequent use of such structure or land shall be in conformity with the provisions of this Ordinance.

ARTICLE XVII

GENERAL PROVISIONS

Section 1700. Interpretation and Purpose. In interpreting and applying the provisions of this Ordinance the same shall be considered as establishing the minimum requirements for the promotion of the health, safety and the general welfare of the Borough.

Section 1701. Penalties and Remedies. Any person, partnership or corporation, trust, LLC or any other type of legal entity who or which shall violate this Ordinance, or do any act or thing prohibited or refuse or fail to do any act or thing required to be done, or refuse or fail to comply with any order of the Borough administrative officer or any order of the Zoning Hearing Board, shall, upon conviction thereof in a summary proceeding, be subject for each violation to a fine of not more than Five Hundred Dollars (\$500.00). In default of payment of the fine, such person, the members of such partnership, or the officers of such corporation, shall be liable to imprisonment for not more than sixty (60) days. In addition to such legal

remedy, an appropriate action in equity may be instituted to prevent any building or structure from being erected, constructed, restored, altered or changed, or any building, structure or land from being maintained or used in violation of this Ordinance; or to restrain, correct or abate such violation; or to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use, in or about such premises.

Section 1702. Validity. Should any section, sentence or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any other part thereof.

Section 1703. Repealer. All Ordinances and parts of Ordinances of the Borough of Rose Valley heretofore adopted which are inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

ADOPTED THIS _____ DAY OF _____ A.D., 2010.

BOROUGH OF ROSE VALLEY

President of Council

ATTEST: _____
Secretary

ADOPTED THIS _____ DAY OF _____ A.D., 2010.

Mayor