

**Excepted from the Berlin Township Zoning Code
Effective July 29, 2004**

ARTICLE XVI Old Cheshire Planned Unit Development District (OCPUD)

16.01 Permitted Uses. Land and buildings in the OCPUD DISTRICT shall be used only for the following purposes:

- a. Residential Development. Residential use in the form of single family detached dwellings, two family dwellings, single family common wall attached dwellings, and multi-family dwellings developed in a unified manner in accordance with the approved Development Plan.

Multi family dwelling units held back by the developer for lease shall not exceed 25% of the total number of multi family dwelling units within the OCPUD development plan. All other units must be available for sale to individual owners. Multi-family developments zoned R-3 within the OCPUD designated area on the date of the adoption of this amendment may exceed the 25% rental amount and may add additional rental units if they have vacant land within their R-3 zoned area and can meet the standards of the OCPUD.

Maximum density is five units per net developable acre. All dwelling units constructed within this district shall contain the following minimum living area:

One (1) bedroom unit	-	600 square feet
Two (2) bedroom unit	-	700 square feet
Three or more bedroom units	-	1000 square feet

- b. Home Occupation. Home occupation in association with a permitted dwelling and in accordance with the provisions of Sections 21.15 and 21.16.
- c. Accessory Use. Accessory buildings and uses in association with a permitted dwelling as defined in Article IV.
- d. Office facilities for the management function, including property sales, necessary to the development and operation of the area included in the OCPUD Development Plan.
- e. Other facilities or amenities, including recreation facilities, provided for the use of the residents, provided they are an approved part of the Development Plan.
- f. Schools. Public and private schools offering general educational courses and having no rooms regularly used for housing or sleeping of students.
- g. Parks, playgrounds and playfields open to the public without fee.
- h. Religious Uses. Church or other place of worship provided it occupies a lot adequate for all structures, required setbacks, water supply and sewage disposal, and off-street parking.
- i. Commercial Uses. Within the OCPUD District the following commercial uses, according to their NAICS code number, developed in strict compliance with the approved development plan and standards, shall be permitted. The

precise use or type of use of the tract shall be specified in the plan as submitted and approved.

Note: The NAICS code numbers are inclusive in ascending order. All two digit sector numbers listed in the left hand column below include as permitted uses all 3-6 digit numbers beginning with those two digits. All three digit codes include all 4-6-digit codes beginning with those three digits, and so on. If a specific six-digit code is used, it refers to only one permitted use. For example, Code 52 means that any use listed in the 2002 NAICS code under Sector 52 (such as 52212 Savings Institutions) is permitted.

2002 U.S. NAICS CODE #	Permitted Use
1114	Greenhouse, Nursery and Floriculture Production
311811	Retail Bakeries
336612	Boat yards, including boat storage
442	Furniture and Home Furnishings Stores, less than 5,000 square feet of gross leasable area.
443	Electronics and Appliance Stores, less than 5,000 square feet of gross leasable area.
445	Food and Beverage Stores
446	Health and Personal Care Stores
447	Gasoline Stations
448	Clothing and Clothing Accessories Stores
451	Sporting Goods, Hobby, Book, and Music Stores
453	Miscellaneous Store Retailers, (except Adults Only Entertainment establishments, and 45393 Manufactured Home Dealers)
484220	Boat hauling, local
491	Postal Service
51113	Book Publishers
512131	Motion Picture Theaters (except Adults Only Entertainment establishments)
51224	Sound Recording Studios
5133	Telecommunications
514	Information and Data Processing Services
52	Finance and Insurance
5312	Offices of Real Estate Agents and Brokers
532292	Boat rental, pleasure
5322	Consumer Goods Rental
54	Professional, Scientific and Technical Services (includes medical, veterinarians, computer and related hardware and research and development etc.)
55	Management of Companies and Enterprises
561	Administrative and Support Services
61	Educational Services
621	Ambulatory Health Care Services
623	Nursing and Residential Care Facilities
71111	Theater Companies and Dinner Theaters
71112	Dance Companies
71211	Museums

71394	Fitness and Recreational Centers
71395	Bowling Centers
72111	Hotels (except casino) and Motels
722	Food Services and Drinking Places (except those establishments offering or featuring entertainment including totally nude, topless, bottomless, strippers, male or female impersonators, or similar adult entertainment or services).
811	Repair and Maintenance (auto, electronic, etc.)
812	Personal and Laundry Services
813	Religious, Grantmaking, Civil, Professional and Similar Organizations
92	Public Administration

16.02 PROCEDURE TO CREATE AN OCPUD

A. Prepare an Existing Features (Site Analysis) Plan- The applicant shall prepare an existing features (Site Analysis) plan and calculate the net developable acreage and yield as provided herein.

B. Submit an Existing Features (Site Analysis) Plan without fee. The applicant shall submit to the Zoning Commission the existing features (site analysis) plan for a tract(s) of land to be considered under this section for the OCPUD.

C. On-Site Walkabout- At a jointly agreeable time, the applicant and the Zoning Commission may walk the site. At the site walk or thereafter a very conceptual development plan should be quickly sketched on the site analysis map by the applicant or his consultant for impromptu comments from the Zoning Commission. No binding decisions or votes are made at the on-site walkabout. Based upon such comments, a formal development plan can be prepared for public hearing. The On-Site Walkabout is a public meeting pursuant to Ohio Sunshine law and must be properly noticed.

D. Prepare Application and Final Development Plan- Applicant shall prepare and submit a formal application and development plan, with fifteen (15) copies and fees, to the Zoning Commission. The Zoning Commission schedules a public hearing. Abutting landowners within 500 feet of the subject tract shall be notified. Zoning Commission may request the DCRPC to comment. Zoning Commission's review is administrative.

The Final Development Plan shall include in text and map form the following unless such individual requirement is waived by the Zoning Commission.

1. A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed development.
2. A finished grading plan drawn at a scale of 1"=100', showing all information pertaining to surface drainage.
3. A landscape plan drawn by a landscape architect to an overall scale of at least 1" =100', with larger scale elevations and cross sections.
4. An explanation of the method/structure and proposed documentation and instruments to be used in order to perpetually preserve the required open space.

5. The Development Plan shall be to a scale of at least 1" = 100' and shall show the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features, including the following:
 - a. The general development character, the permitted and accessory uses, buildings and structures to be located on the tract including the limitations or controls to be placed on each, with proposed lot sizes, and minimum setback and spacing requirements. Other development features, shall be shown including landscaping, entrance features, signage, pathways, sidewalks, recreational facilities and open space areas. All commonly owned structures shall be shown in detail that identifies the location, quantity, type and typical section of each. The Development Plan shall identify dwelling unit densities for any proposed residential development, dwelling unit types, the total number of dwelling units proposed for the site, and the method and manner used to calculate density.
 - b. No structure (other than approved drainage structures as shown on The Development Plan) shall be constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County.
 - c. Locations of stream channels, watercourses, wooded areas and buffer areas shall be designated. Existing topography and drainage patterns shall also be shown. Primary and secondary conservation areas to be conserved and such areas to be impacted or altered shall be identified on the Plan. Primary conservation areas such as the 100-year floodplain, wetlands, and slopes greater than 20% shall be mapped.
 - d. Architectural design criteria including materials, colors and renderings for all structures and criteria for proposed signs, with proposed control procedures. These shall also include specific renderings of the elevations of structures. Any modification of these structures shall require re-approval of the Development Plan by the Township Zoning Commission. Materials and colors shall be submitted for approval.
 - e. The proposed provisions for water, fire hydrants, sewage disposal and surface drainage with engineering feasibility studies or other evidence of reasonableness. Pipe sizes and locations, detention basins and drainage structures shall be drawn.
 - f. A traffic impact analysis, if required by the Zoning Commission, prepared by a competent traffic engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing streets and conditions.
 - g. The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.

- h. Identification and location of all uses and structures proposed within the site and the location of schools, parks and other public facility sites within or adjacent to the site. This includes a showing of:
- 1.) the exact location and dimension of private streets, common drives and public street rights-of-way;
 - 2.) exact location of building footprints or envelopes within which dwelling units are to be constructed, and lot lines with dimensions for all residential units for which individual ownership is proposed;
 - 3.) dimensions of building/unit spacing;
 - 4.) the exact location of forested no cut/no disturb zones;
 - 5.) designated open space areas and a description of proposed open space improvements; and
 - 6.) the exact location of all utility easements.
 - 7.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
 - 8.) If the proposed timetable for development includes developing the land (including open space) in phases, all phases shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.
 - 9.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
 - 10.) Except for density, the applicant may request a divergence from the other development standards set forth in Article XVI. An applicant making such a request shall specifically and separately list each requested divergence and the justification therefore on the Development Plan submittals, with a request that the proposed divergence be approved "per plan." Unless specifically supplemented by the standards contained in Article XVI or those standards approved in the Development Plan, the development shall comply with the General Development Standards applicable to all zoning districts, as set forth in Article XXI.
 - 11.) Deed restrictions, protective covenants, and other legal statements or devices to be used to control the use, development and maintenance of the land, the improvements thereon, including those areas which are to be commonly owned and maintained as well as the open space.
 - 12.) Other information, as may be required by the Zoning Commission in order to determine compliance with this Resolution.

- i. The Development Plan shall bear the seal of a registered engineer or surveyor, plus an architect or landscape architect, each of whom shall be licensed to practice in the State of Ohio.

E. Public Hearing- The Zoning Commission shall hold a public hearing on the request within a reasonable period of time after receipt of the application, final development plan and submission of fees.

F. Action by Zoning Commission- the Zoning Commission may approve the application and final development plan for the OCPUD provided it finds that:

1. the proposed use complies with all purposes, requirements and standards established in this zoning resolution and that any divergence is warranted by the design and amenities incorporated in the development plan;
2. the design preserves and protects primary conservation areas, and adequately provides useable open space in residential areas;
3. that the proposed use is in accord with applicable plans or policies for the area;
4. that the proposed development will be adequately served by essential public facilities and services such as roads, walks, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; and
5. that the proposed development is in keeping with the existing land use character and physical development potential of the area. In approving the application and Final Development Plan, the Zoning Commission may impose such conditions, safeguards and restrictions in order to carryout the purpose and intent of this district.

G. Subdivision Plat

No zoning certificate shall be issued for any structure in any portion of a planned unit development for which a plat is required by the Delaware County Subdivision Regulations unless and until:

1. The final subdivision plat for that portion has been approved by the Delaware County Regional Planning Commission and the Delaware County Commissioners and been recorded.
2. A full size (typically 24" x 36") and an 11"x 17" copy of the recorded plat have been filed with the zoning inspector.

No modification of the provisions of the Final Development Plan, or part thereof, as finally approved shall be made unless the provisions of Article XVI are followed. The applicant shall submit the subdivision plat to the Zoning Inspector for review in order to assure the notes and agreed conditions on the Final Development Plan are not compromised by final engineering.

H. Zoning Certificate

After the Final Development Plan is approved and any required final Subdivision Plat is recorded, the Zoning Inspector may issue a zoning permit upon payment of the required fees and submission of the detailed landscaping plan for each platted lot. The zoning permit for a planned development shall be for a period not to exceed three (3) years or that period approved in the final development plan. If no construction has begun within

three (3) years after approval is granted the Final Development Plan approval shall be void.

Section 16.03 OCPUD DEVELOPMENT PLAN STANDARDS

- A. Minimum tract size for a OCPUD-** none; as approved per development plan.
- B. Open Space-** Dedication of land for public purposes approved with the development plan including trails, active recreation, spray irrigation fields, etc. may be encouraged by the Township. The decision whether to accept an applicant's offer to dedicate open space for public use shall be at the discretion of the Township Trustees. The development plan shall specify the purposes for which open space areas are proposed. Any recreational facilities proposed to be constructed within open space areas shall be clearly shown on the final development plan.
- 1.** In calculating open space, the areas of fee simple lots conveyed to homeowners shall not be included.
 - 2.** Any area of natural open space that is proposed to be disturbed during construction or otherwise not preserved in its natural state shall be shown on the final development plan and shall be restored with vegetation that is compatible with the natural characteristics of the site. The method and timing of any restoration shall be set forth in the development plan.
- C. Sewage Disposal-** Connection to public centralized sewer is required.
- D. Storm Water-** No features shall be designed which are likely to cause erosion or flooding.
- E. Subdivision standards-** Street and drainage improvements shall conform to the subdivision standards for Delaware County Ohio.
- F. Paths-** Sidewalks or walking paths may be required for residential areas of more than 15 dwellings. Sidewalks/paths shall be separated from the paved street surface by at least five feet (5') of landscaped or grassed strip. The Zoning Commission may require paved walkways to connect residential areas and open spaces.
- G. Street Trees-** Deciduous, broad leaf street trees with a minimum caliper of two inches (2") at planting shall be planted (or retained) at least every fifty (50) lineal feet along at least one side of the street(s).
- H. Minimum Front Setbacks-** Dwelling Units shall be set back thirty (30) feet from the street right of way. Front load garages shall be setback at least ten (10) feet behind the front building line of the dwelling unit, or may be flush with the dwelling unit front if the dwelling unit sets back at least fifty (40) feet from the street right of way. Side load garages shall be setback at least thirty (30) feet from the street right of way.
- I. Minimum lot size:** None, as approved per plan.
- J. Minimum Lot Width** at the building line- as approved per plan.
- K. Minimum Side yards-** as approved per plan.
- L. Driveway Setbacks-** Two feet from side lot line. Side-load garages shall provide at least 24 feet of paved apron, exclusive of the 2-foot side lot line for single family detached

dwelling on fee simple ownership lots. Attached units or detached condominiums as approved per the final development plan.

M. Minimum Rear yard- 30 feet for single family detached dwellings on fee simple ownership lots and attached garages. 15 feet for accessory buildings. Attached units or detached condominiums as approved per the final development plan.

N. Building Height Requirement- No principal building in this district shall exceed thirty-five (35) feet in height.

O. Street lighting- if provided must be of white light, maximum height 16 feet, with downward cast lighting.

P. Landscaping - All yards, front, side and rear, shall be landscaped. All improved common open space shall be landscaped per the approved development plan. A landscape plan for the common open space and streetscape within road right of way shall be prepared by a licensed landscape architect showing the caliper, height, numbers, name and placement of all material, and shall be submitted with and approved as a part of the final development plan. The landscape plan shall identify each plant, shrub or tree, its name, its size at planting and rendering of how that section of the development would look in elevation.

Q. Parking – Off-street parking shall be provided at the time of construction of each principal structure or building, with adequate provisions for ingress and egress in accordance with the development plan. Off-street parking shall comply with the provisions of this resolution, or as approved per plan.

R. Signs-All signs shall be in accordance with Article XXII.

S. Supplemental Conditions and Safeguards-The Berlin Township Zoning Commission may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed, landscaping, development, improvement and maintenance of open space (whether improved common open space or natural open space), and any other pertinent development characteristics.

T. Divergences- the Zoning Commission as a part of development plan approval, may grant divergences from any standard or requirement in this Section with the exception of density and the percentage of required open space. An applicant requesting a divergence shall specifically and separately list each requested divergence and the justification therefore on the development plan submittals with a request that the proposed divergence be approved “per plan”.

Section 16.04 Extension or Modification of Final Development Plan

- A. An extension of the time limit for the approved Final Development Plan may be granted by the Zoning Commission without public hearing provided the Zoning Commission finds that such extension is not in conflict with public interest.
- B. A request for minor changes to the Final Development Plan may be approved by the Zoning Commission without being subject to the same procedures as the original application. In approving such requests, the Zoning Commission may impose such conditions, safeguards and restrictions in order to carryout the purpose and intent of this district.
- C. In the case of a request for a modification or amendment to the Final Development Plan that represents a substantial departure from the intent of the original proposal, said

modification or amendment shall be subject to the same procedure and conditions of approval as the original application. The following shall be considered substantial departures from the original application:

- 1) A change in the use or character of the development
- 2) An increase in overall coverage of structures
- 3) An increase in the density (for residential development)
- 4) An increase in traffic circulation.
- 5) A reduction in approved open space
- 6) A reduction of off-street parking and loading space
- 7) A reduction in required pavement widths
- 8) A reduction of the acreage in the planned development

In approving such requests, the Zoning Commission may impose such conditions, safeguards and restrictions in order to carryout the purpose and intent of this district.