

ARTICLE 16 Planned Mixed Use District

Section 16.01 – NATURE OF THE DISTRICT

The Planned Mixed Use District is created pursuant to Section 519.021(C) of the Ohio Revised Code to further the purpose of promoting the general public welfare, encouraging the efficient use of land and resources, promoting public and utility services, and encouraging innovation in the planning and building of appropriate types of retail, office and residential development. The PMUD achieves this purpose by permitting flexibility of design in order to promote and accommodate environmentally sensitive and efficient use of the land, thereby allowing for a unified development that:

- Permanently preserves unique or sensitive natural resources and integrates Open Space within developments.
- Reduces the amount of infrastructure, including paved surfaces and utility easements, necessary for development.
- Reduces erosion and sedimentation by minimizing land disturbance and removal of vegetation.
- Provides an opportunity for an appropriate mix of open space, office, retail, institutional and Residential Uses not otherwise permitted within the standard zoning district classifications.
- Enables more extensive review of design characteristics to ensure that the development project is properly integrated into its surroundings and is compatible with adjacent development.
- Assures compatibility between proposed land uses within and around the PMUD through appropriate development controls.
- Enhances the welfare and economy of the Township by making available a variety of employment opportunities, providers of goods and services as well as providing a variety of housing options for the Township residents.
- Encourages unified development projects that exhibit creative planning and design in ways that cannot be achieved through a standard zoning district, yet are imaginative in architectural design and are consistent with applicable public plans for the area and are compatible with surrounding land uses.

Section 16.02 – OVERLAY AREA ESTABLISHED

The PMUD is created pursuant to Section 519.021(C) of the Ohio Revised Code and encompasses, includes, overlays and rezones to the PMUD the area shown on the PMUD Overlay Zoning District Map, which map is attached hereto and incorporated herein as Attachment 1 and is hereby adopted as the official Zoning District Map for the PMUD as part of this amendment. The existing zoning regulations and districts for such area shall continue to apply to all property within the PMUD unless the Berkshire Township Zoning Commission approves an Application of an owner of property to subject the owner's property to the provisions of the PMUD. Such an Application shall be made in accordance with the provisions of **Section 16.06** of the Berkshire Township Zoning Resolution and shall include a Development Plan in compliance with the provisions of **Section 16.06(C)**. Upon receiving such an Application and Development Plan, if the Berkshire Township Zoning Commission determines that the Application and Development Plan comply with the provisions of this **Article 16** and approves the Application, the Berkshire Township Zoning Commission shall cause the zoning map to be changed so that the underlying zoning district no longer applies to such property, with the property being thenceforth located in the PMUD and subject to the regulations thereunder. The approval of the Application and Development Plan and the removal of the prior zoning district from the zoning map is a ministerial act and shall not be considered to be an amendment to the Berkshire Township Zoning Resolution.

Section 16.03 – PERMITTED USES

- A.) Permitted uses within the PMUD according to their 2012 North American Industry Classification System (NAICS) code number, may be permitted when approved by the Development Plan process in strict compliance with the approved Development Plan and standards, provided that each such use is listed as a permitted use in this Section and is specifically set forth in the Development Plan.

The precise use or type of use of the tract shall be specified in the plan as submitted and approved and shall be subject to the Use-Specific Requirements set forth in **Section 16.03(B)** herein, as applicable.

2012 NAICS CODE #	Use
Administrative, Professional, Institutional, and Business Offices	
1114	Greenhouse, Nursery and Floriculture Production
311811	Retail Bakeries
4413	Automotive Parts, Accessories, and Tire Stores
442	Furniture and Home Furnishings Stores
443	Electronics and Appliance Stores
444	Building Material and Garden Equipment and Supplies Dealers
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
452	General Merchandise Stores
453	Miscellaneous Store Retailers (except Adults Only Entertainment Establishments and 45393 Manufactured Home Dealers)
491	Postal Service
51113	Book Publishers
512131	Motion Picture Theaters (except Adults Only Entertainment Establishments)
51224	Sound Recording Studios
513112	Radio Stations
51312	Television Broadcasting
5133	Telecommunications
514	Information and Data Processing Services
52	Finance and Insurance
5312	Offices of Real Estate Agents and Brokers
53211	Passenger Car Rental and Leasing
5322	Consumer Goods Rental
53242	Office Machinery and Equipment Rental and Leasing
54	Professional, Scientific and Technical Services
55	Management of Companies and Enterprises
561	Administrative and Support Services
61	Educational Services
621	Ambulatory Health Care Services
6221	General Medical and Surgical Hospitals
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 included in Adults Only Entertainment Establishments as defined in Article 4).
8112	Electronic and Precision Equipment Repair and Maintenance
8114	Personal and Household Goods Repair and Maintenance
812	Personal and Laundry Services

813	Religious, Grantmaking, Civil, Professional and Similar Organizations
92	Public Administration
	Residential Uses

B.) Use-Specific Requirements. The following requirements, in addition to all other applicable development standards, shall apply to the following specific uses:

- 1.) Office-Flex. Offices and research/laboratory facilities may include space for clean manufacturing and assembly, wholesaling and/or related showroom(s), warehousing and or distribution purposes, so long as no more than forty percent (40%) of the gross floor area of the principal structure is used for such ancillary use(s).
- 2.) Home Health Equipment Rental. The renting of home-type health and invalid equipment, such as wheel chairs, hospital beds, oxygen tanks, walkers, crutches, etc. may be permitted as an accessory use to the primary use of a structure for Professional, Scientific and Technical Services as defined by **Section 16.03(A)** of this Zoning Resolution.
- 3.) Accessory Multi-Family Dwelling Structure Components. Any Multi-family Dwelling structures located within the PMUD may, if approved as part of the Development Plan, be permitted to include the following accessory uses, so long as those uses are either wholly contained within the Multi-Family Dwelling structures or architecturally and operationally integrated into the Multi-Family Dwelling proposal:
 - a.) Private Garages.
 - b.) Food Services and Drinking Places.
 - c.) Exercise and Fitness Facilities.
 - d.) Personal and Laundry Services (except 812332 – Industrial Launderers) as defined in **Section 16.03(A)** of this Zoning Resolution.
 - e.) Entertainment and Recreation Facilities – Indoor and Outdoor.
 - f.) Storage facilities for bicycles, as well as individual storage facilities for the keeping of personal property owned by the residents of the Multi-Family Dwelling structures. Storage facilities shall not exceed, on average, fifty (50) square feet in floor space per Multi-Family Dwelling Unit; provided, however, that no single unit's storage space shall exceed one hundred fifty (150) square feet. Bicycle and individual storage facilities may be located wholly in a separate accessory structure, so long as that structure(s) is architecturally integrated into the Multi-Family Dwelling proposal and is authorized by an approved Development Plan.
- 4.) Hotels and Motels shall only contain individual guest rooms that are held out to the public to be a place where sleeping accommodations are offered for pay to guests for an amount no less than the minimum daily rental rate as established by each hotel or motel. Each room shall not be rented out more than twice in any consecutive twenty-four (24) hour period.
- 5.) Limited Home Occupations: The following professional or business activities shall be considered "Limited Home Occupations," provided that such activities are carried on solely within the confines of the dwelling, do not occupy more than twenty percent (20%) of the dwelling, retain no non-residential employees (whether paid or voluntary), generate no greater traffic, parking or deliveries than would

normally be expected in a residential neighborhood, do not create a nuisance to the neighborhood or general public, and are imperceptible from the exterior of the dwelling and display no sign:

- a.) Home offices used for traditional office related tasks including, but not limited to, maintaining records and accounts, making and receiving telephone calls, faxes and emails, and generating papers, reports or similar work product, but not including the reception of patients, clients or any licensees or invitees.
- C.) Temporary Structures. Temporary structures such as manufactured/mobile home offices and temporary buildings of a non-residential character may be used incidental to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. A Zoning Permit shall be obtained for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as the Zoning Inspector deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. No such structure shall be occupied as a dwelling.

Section 16.04 – ACCESSORY USES, BUILDINGS, AND STRUCTURES

Accessory uses, as defined in **Article 4** of the Zoning Resolution, may be permitted only when customary with and incidental or subordinate to and in association with a principal permitted use, and further provided that such accessory uses are specifically set forth in the Development Plan and approved as accessory uses by the Township. Any accessory uses proposed as part of any Multi-Family Dwelling structure or Multi-Family Dwelling component shall comply with the requirements of **Section 16.03(B)(3)** and this Zoning Resolution.

Accessory uses other than those authorized in **Section 16.03(B)(3)** may be located in a separate accessory structure which is subordinate to the principal structure, provided that the accessory structure is architecturally compatible with and operationally integrated into the development.

Section 16.05 – PROHIBITED USES

Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall be prohibited. The following uses shall be prohibited:

- A.) Uses not specifically approved by the Zoning Commission as part of the Development Plan.
- B.) Outdoor storage of inoperable, unlicensed or unused motor vehicles for a period exceeding seven (7) days. Said vehicles, if stored on the premises, shall be enclosed within a building so as not to be visible from any adjoining property or public road. This prohibition shall not apply to a legal sales or repair activity if such activities are carried out in compliance with the approved Development Plan.
- C.) Except as provided in the Development Plan, no trailer of any type, no boats, no motor homes, no campers and no equipment of any type shall be parked in front of the principal structure line on any non-residential parcel within this district, and may only be parked for not more than eight (8) hours in a twenty-four (24)-hour period if located on a residential parcel. If a structure is located on the property, the principal structure line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by the Development Plan.
- D.) No manufactured home, mobile home, motor home or camper shall be occupied in this district for residential purposes. Mobile office structures may be permitted in the approved Development Plan in accordance with **Section 16.03(C)**.
- E.) Sales trailers of any type.

- F.) Adults Only Entertainment Establishments as defined in **Article 4** of this Resolution.
- G.) Self-service storage facilities, pawn shops, check cashing or short term loan establishments as a primary use, tattoo parlors, and skill game establishments.
- H.) No trash, debris, discarded materials, junk vehicles, vehicle parts, rags, lumber, building materials, equipment and/or parts thereof, or any garbage, refuse, or junk shall be permitted to accumulate on any lot or portion thereof. All trash, debris, discarded materials, vehicle parts, rags, lumber, building materials, and other garbage, refuse or junk shall be contained in solid sided containers during construction phases and thereafter. No wire or cage-type containers shall be permitted, and no such materials shall be above the sides of the container.

Section 16.06 – PROCESS FOR PLAN APPROVAL

All Applications to submit property to the PMUD regulations shall follow the procedures hereinafter set forth:

- A.) **Pre-Application Meeting.** The Applicant is encouraged to engage in informal consultations with staff from the Township and the Delaware County Regional Planning Commission prior to formal submission of an Application for approval of a Development Plan. No statement or action by Township or County officials in the course of these informal consultations shall be construed to be a waiver of any legal obligation of the Applicant or of any procedure or formal approval required by Township or County statutes or rules. Ohio's Open Meetings Law (Section 121.22 of the Ohio Revised Code) is required to be observed at pre-Application meetings involving a quorum of members of the Berkshire Township Zoning Commission.
- B.) **Application and Development Plan.** The Applicant shall prepare and submit ten (10) copies of an Application and Development Plan, along with an electronic copy and all applicable fees to the Berkshire Township Zoning Commission. The Application shall be signed by the Applicant and all owners of property included in the Application and Development Plan. The Berkshire Township Zoning Commission may request that any County agency and/or any committee of the Delaware County Regional Planning Commission submit comments for consideration at the meeting.

The Application shall be accompanied by a Development Plan and the following supporting information and documentation in text and map form:

- 1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed development.
 - 2.) A grading plan drawn to scale, showing all information pertaining to surface drainage.
 - 3.) A detailed Landscape Plan shall be submitted with the Development Plan and shall be subject to approval as part of the Development Plan. It shall depict and identify all proposed landscaping features.
 - 4.) A detailed Signage and Exterior Lighting Plan shall be submitted with the Development Plan and shall be subject to approval as part of the Development Plan.
 - 5.) A detailed Parking and Loading Plan shall be submitted with the Development Plan and shall be subject to approval as part of the Development Plan.
 - 6.) An explanation of the method/structure and proposed documentation and instruments to be used in order to perpetually own, maintain and preserve the Open Space, as required, that is unified and permanently protected. The location, size and proposed use(s) of all Open Space areas shall be detailed.
- C.) **Development Plan Contents.** The Development Plan shall include in text and map form the following:
 - 1.) Proposed name of the development and its location.

- 2.) Names and addresses of applicant, owners and developers. Also, the names and mailing addresses of all owners of property within and contiguous to and directly across the street from the area proposed for PMUD approval shall be provided.
- 3.) Date, north arrow and Plan scale. Scale shall be one inch equals one hundred feet (1"= 100') or larger scale.
- 4.) A list, description and location of the precise uses proposed for the development and phases for construction, if any. Listed uses shall be defined by their 2012 NAICS Code Classification provided, however, that proposed Residential Uses shall be generically requested and described. Any listed use may be limited to specific areas delineated in the Development Plan.

If the proposed timetable for development includes developing the property in phases, all phases to be developed after the first shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.

- 5.) Locations, widths and names of all existing public streets or other public ways, railroad and utility rights of way or easements, parks and other public Open Spaces, permanent structures, and section and corporation lines within or adjacent to the tract.
- 6.) Existing sewers, water mains, culverts and other underground facilities within the tract, adjacent to the tract or that will be used or are proposed to be used in developing the tract, indicating pipe sizes, grades and locations.
- 7.) The adjoining lines of adjacent tracts, parcels or lots.
- 8.) Existing zoning restrictions and deed restrictions, if any.
- 9.) Existing topography, drainage channels, wooded areas, watercourses, wetlands and other significant physical features.
- 10.) Layout of proposed streets, private or public, including their names and rights of way, easements, sewers, water lines, culverts and other major improvements.
- 11.) Layout, numbering and dimensions of lots if more than one.
- 12.) The total amount of Lot Coverage, as that term is defined in **Article 4** of this Resolution, proposed by the Application and Development Plan.
- 13.) Parcels of land intended to be dedicated or temporarily reserved for public use or reserved by deed covenant with the condition proposed for such covenant or dedication.
- 14.) Building setback lines with dimensions.
- 15.) Building locations depicting the bulk, height and spatial relationships of building masses with adjacent development.
- 16.) Layout, location, dimensions and architectural features of proposed structures including preliminary floor plans, exterior elevations and sections.

- 17.) Color rendering of buildings(s), complete with a listing of all colors, including current Pantone Reference Numbers or, if Pantone is not available, the manufacturer's reference/serial number with samples and materials to be used.
 - 18.) A Detailed Parking and Loading Plan showing layout, location and design of parking and loading areas for all proposed uses, including proposed number of parking and loading spaces, traffic circulation, curb cuts, pedestrian walks and lane improvements on existing public roads.
 - 19.) Engineering feasibility studies of any anticipated problems which may arise due to the proposed development as required by the Zoning Commission.
 - 20.) Intended measures to screen the development from adjacent residentially zoned property as well as measures to screen rooftop mechanical equipment, production areas, service areas, storage areas, trash containers and loading zones from view.
 - 21.) Accommodations and access for emergency and fire-fighting apparatus.
 - 22.) Location, type, dimensions and features of all signage and exterior lighting through a detailed Signage and Exterior Lighting Plan.
 - 23.) The plan or mechanism to provide for the perpetual maintenance of all landscaping, buffers and shared parking areas by the ultimate owner and/or user.
 - 24.) Projected schedule of site development.
 - 25.) The ability of the applicant to carry forth this Plan by control of the land and the engineering feasibility of the Plan.
 - 26.) Other supplemental information, as may be reasonably required by the Berkshire Township Zoning Commission, in order to determine compliance with this Zoning Resolution.
 - 27.) The Development Plan (and the various accompanying plans) shall bear the seal of a registered engineer or surveyor and an architect or landscape architect, each of whom shall be licensed to practice in the State of Ohio.
 - 28.) The applicant may request a divergence from the development standards set forth in this **Article 16**. 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 as part of and as shown on the Development Plan. Unless specifically supplemented by the standards contained in the Development Plan, the development shall comply with the requirements contained in **Article 16** and the General Development Standards applicable to all zoning districts, as set forth in the Berkshire Township Zoning Resolution.
- D.) Zoning Commission Action. After receipt of the completed Application materials and required fees, the Zoning Commission shall schedule a public hearing within forty-five (45) days after the filing of the complete Application and shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area proposed for development written notice of the hearing at least ten (10) days before the date of the hearing. Notice shall be sent by regular, first class mail to the addresses of those owners as they appear on the County Auditor's current tax list. The failure of delivery of that notice shall not invalidate any action the Zoning Commission may take on the Application. The Zoning Commission shall render a decision on the Application and Development Plan within forty-five (45) days after the conclusion of the hearing.

E.) Basis of Approval. In determining whether or not to approve an Application and Development Plan, the reviewing authorities shall consider the following:

- 1.) Whether the proposed Application and Development Plan are consistent in all aspects with the purpose, criteria, intent, and standards of this Zoning Resolution and whether any divergence is warranted by the design and amenities incorporated in the Development Plan.
- 2.) Whether the proposed Application and Development Plan meet all of the design features required in this Zoning Resolution.
- 3.) Whether the proposed Application and Development Plan are compatible with the existing land use character, consistent with the intent and purpose of **Article 16** of this Resolution, and are in keeping with the Berkshire Township, Delaware County, Ohio Comprehensive Plan (the "Comp Plan") and other applicable public plans for the area.
- 4.) Whether the proposed development will be adequately served by essential public facilities and services including, without limitation, roads, walkways and bike paths, police and fire protection, drainage structures, potable water and centralized sanitary sewers or other approved sewage disposal systems.
- 5.) Whether the proposed Application and Development Plan promote greater efficiency in providing public and utility services and encouraging innovation in the planning and building of all types of development.
- 6.) Whether the proposed development can be made accessible through existing Township roadways or roadways and lane improvements actually being constructed and opened prior to the use and occupancy of the proposed development without creating unreasonable traffic congestion in the immediate vicinity of the proposed development or elsewhere in the Township.
- 7.) Whether the proposed development is designed in such a way as to minimize any unreasonable adverse impact on surrounding areas of the Township.

In approving the Application and Development Plan, the Zoning Commission may impose such conditions, safeguards and restrictions deemed necessary in order to carry out the purpose and intent of the PMUD.

F.) Effect of Approval.

- 1.) The Zoning Commission's determination shall not be considered to be an amendment to the Township Zoning Resolution for purposes of Section 519.12 of the Revised Code, but may be appealed pursuant to Chapter 2506 of the Revised Code. If the Zoning Commission makes a final determination that the Development Plan included in the Application complies with this **Article 16**, or if the Zoning Commission's final determination is one of noncompliance, then if a court of competent jurisdiction makes a final non-appealable order finding compliance, the Zoning Commission shall approve the Application and upon approval shall cause the Zoning Map to be changed so that any other zoning district that applied to the property that is the subject of the owner's Application no longer applies to that property. The removal of the prior zoning district from the Zoning Map is a ministerial act and shall not be considered to be an amendment to the Township Zoning Resolution for the purposes of Section 519.12 of the Revised Code and may not be appealed pursuant to Chapter 2506 of the Revised Code.
- 2.) The approval of the Development Plan shall be effective for a period of five (5) years (or for such other time period as may be approved as part of the Development Plan) in order to allow for the preparation and recording of a subdivision plat (if required under applicable law) and the commencement of

construction following the issuance of a zoning permit(s). If no plat has been recorded within this approval period (or, if platting is not required, if construction has not commenced) and unless the Zoning Commission approves an extension of this time limit, the Development Plan shall expire. Upon the expiration of the Development Plan, the subject parcel(s) shall remain zoned PMUD, but no use shall be established or changed and no building, structure or improvement shall be constructed until an Application for a new Development Plan, accompanied by a new Development Plan, has been filed with and approved by the Township using the procedures and process then established for the approval of an initial Development Plan.

- 3.) No zoning certificate shall be issued for any structure in any portion of a PMUD for which a plat is required by the Delaware County Regional Planning Commission unless the final subdivision plat for that portion has been approved by the applicable platting authorities and recorded with the Delaware County Recorder in accordance with the approved Development Plan and with the Subdivision Regulations of Delaware County, Ohio.
 - 4.) An extension of the time limit for either recording the approved subdivision plat or the commencement of construction may be granted by the Zoning Commission upon Application of the owner(s), provided the Zoning Commission determines that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the recordation of the plat and the completion of the development of the project. The length of time permitted for an extension shall be determined based upon the Application submitted and at the discretion of the Zoning Commission. A request for extension shall be filed prior to the expiration of the established approval period.
 - 5.) Following the approval of the Development Plan, proposed variations from the approved Development Plan that involve only one (1) lot shall be considered by the Board of Zoning Appeals under its hearing process pursuant to **Article 28** of the Zoning Resolution. All other modifications to the Development Plan shall be presented to the Zoning Commission for its consideration pursuant to **Section 16.06(F)(6)**, hereof.
 - 6.) The Zoning Commission may, at a duly held hearing, modify the approved Development Plan without being subject to the same procedures as the original Application. Any approval may be with such conditions or modifications as the Zoning Commission may determine. The applicant and all owners of property within, contiguous to, and directly across the street from the area proposed for modification shall be given at least ten (10) days' prior notice of the hearing by regular first class mail. The notice shall be mailed to the addresses of those owners as they appear on the County Auditor's current tax list. The failure of delivery of that notice shall not invalidate any action the Zoning Commission may take on the request. The request for modification may be approved upon a showing of a compelling reason and necessity for the same and upon a showing that the owner(s) has made reasonable and diligent efforts toward the accomplishment of the original Development Plan, and that such modification is administrative in nature and not in conflict with the intent and purpose of the PMUD Planned Overlay District. The Zoning Commission shall render a decision on the request within forty-five (45) days after the conclusion of the hearing.
- G.) Fees. A fee as established by the Board of Trustees shall accompany an Application requesting approval of the Development Plan, as well as any request for extension or modification. In addition, the applicant shall also be responsible for all reasonable and necessary expenses incurred by Berkshire Township in using professional consulting services to review the Development Plan. These expenses may include, without limitation, costs for professional consultants such as attorneys, architects, landscape architects, planners and engineers utilized by the Township in connection with reviewing the Development Plan and related Application materials. As soon as reasonably practicable following the submission of an Application for approval of a Development Plan, the Zoning Commission shall decide if it needs a professional consultant(s) to assist it in reviewing the application. If the Zoning Commission decides it needs professional consulting services, it shall designate the person(s) to be

consulted and make an initial estimate of the expenses anticipated to be incurred in reviewing the Application materials. The Zoning Commission shall provide the applicant with notice of its initial estimate of such expenses. This initial estimate will be reviewed, and may be revised, from time to time during the review process, and, if such review results in an increase in the estimated professional consulting fees and charges which will be incurred in the Township's review of the Application materials, the Zoning Commission shall send the applicant written notice of the revised estimate of fees and charges. Within fourteen (14) days of the date of the notice of the initial estimate of fees and charges (and, if applicable, within fourteen (14) days of the date of the notice of any revised estimate), the applicant shall deposit in the office of the Township Fiscal Officer or the Fiscal Officer's designee, an amount equal to the estimated cost of the Township's expenses. In making the estimate of the professional consulting fees and charges anticipated to be incurred, the Zoning Commission shall consider the reasonable commercial rates of qualified professionals. Upon request, the Township shall provide the Applicant with an itemized copy of any consultant(s) bill paid for in accordance with this **Section 16.06(G)**. Notwithstanding the foregoing, bills for legal services shall only disclose the costs incurred and narrative descriptions shall not be disclosed, in that these are privileged communications and protected from disclosure under attorney-client privilege.

Section 16.07 – GENERAL DESIGN STANDARDS

The proposed development shall be designed in accordance with generally accepted planning principles, including the design standards included in this Section, to ensure that the use of land, buildings and other structures; the building location, bulk, layout, arrangement, design, and height; the percentages of lot areas that may be occupied; the setback of buildings; and the sizes of yards and other spaces are in compliance with the purposes and standards of this Section. The Development Plan shall comply with the following design standards:

- A.) Access. Any PMUD development shall have direct access to one or more dedicated and improved public roads of sufficient capacity to accommodate traffic generated by the proposed development. Provision for future connections to other public roads as required by the Township, or other applicable governmental authorities, shall be provided. Unless otherwise provided by an approved Development Plan, emergency vehicular connectivity shall be provided.
- B.) Setbacks and Yard Areas. The location and arrangements of buildings and structures within the PMUD shall be configured in a manner to appropriately balance Open Spaces and commercial areas and to provide safe separation between buildings and uses and to ensure convenient access within the area. The development should be accomplished as a mixed use development, with the potential to provide multi-family housing to the area and associated office and accessory retail and service providers, and designed to create an integrated housing area and economic center for the Township and the surrounding area.
- C.) Residential Density. The density of all proposed residential units in the PMUD shall be subject to the requirements and limitations of **Section 16.08(C)**.
- D.) Perimeter Area. When located contiguous to a residential district (FR-1, PRD, PERRC, PRCD), no building shall be constructed within fifty (50) feet of the perimeter property line of the contiguous property, the perimeter boundary shall be adequately landscaped to screen the development from adjacent property and no parking shall be constructed closer than fifty (50) feet to a contiguous property line.
- E.) Buildings. The physical relationship of buildings and other site improvements to one another and the surrounding area, as created by building size, mass, height, shape and setback, shall result in a harmonious development within the PMUD and with those areas adjacent to it. The bulk and height of buildings within the proposed development shall be compatible with the surrounding area and sufficiently buffered from the surrounding areas in order to mitigate any potential adverse impact. Buildings, structures and parking areas shall be designed and located within the development in ways that conserve environmentally sensitive or unique natural, historic or cultural features, and minimize environmental impacts. Buildings and structures shall be designed to enhance both areas within the development and surrounding areas, giving due regard to building footprints, building orientation, massing, roof shape, pitch and exterior materials.

- F.) **Building Size.** Building size shall be limited in areas not conducive to absorbing the impacts associated with larger types of commercial, office or Multi-Family Dwelling establishments. Buildings may contain such area of floor space as is approved in the Development Plan.
- G.) **Tract Coverage.** Ground coverage by buildings and paved areas shall be minimized and shall be designed to foster compatibility both within the project area and adjacent properties.
- H.) **Lighting.** Exterior building and parking lot lighting including the style and height shall be minimized and shall not be directed toward or impact adjacent areas.
- I.) **Signage.** All signs and graphics within the PMUD shall be compatible in size, location, material, height, shape, color, and illumination. The Signage Plan for the entire PMUD shall set forth the design parameters for the entire project to ensure a consistent and comprehensive character throughout the project. The Signage Plan shall include the design, layout, and dimensions of all ground, monument, window and wall signs as well as distances from right-of-ways and the type and intensity of illumination. Signs should contribute to an overall cohesive design, reflect simplicity, and avoid visual clutter. The overall design and placement of buildings should take into account the general placement of signs so that all permanent signs and associated lighting fixtures complement the appearance and architecture of the buildings and the PMUD and do not contribute to environmental degradation. Ground signs shall be designed to relate to and share common design elements with the building. The materials and colors of the sign, sign background and sign frame shall be compatible with the buildings' materials and colors.
- J.) **Landscaping.** All yards (front, side and rear) and all Open Space not covered by structure, asphalt and the like shall be landscaped. All landscaping shall be maintained and kept in accordance with the Landscape Plan as submitted and approved. All vacant areas shall be kept seeded and maintained in such a manner as to prevent erosion of the property and excess drainage on adjoining land. The Landscape Plan shall show the caliper, height, numbers, name and placement of all materials. The pattern of landscaping shall be coordinated in design and type of materials, mounding and fencing used. Landscaping may vary in density, spacing and other treatments to reflect variations of topography, existing landscape or land uses. The landscape treatment proposed to be provided shall emphasize a pedestrian environment, separate pedestrian ways from parking areas, enhance architectural features, provide shade and strengthen vistas and serve as an important axis between the development and other locations.

The Landscape Plan shall preserve and be sensitive to the natural characteristics of the site and shall provide screening from adjacent Residential Uses and districts. Where natural or existing topographic patterns positively contribute to the appearance and utility of a development, they shall be preserved. Any proposed landscape mounds shall be designed with such slope, plant and other landscape materials so as to minimize maintenance requirements and maximize the health and durability of the chosen plants and landscape materials. Overall unity of design shall be encouraged through landscape treatment. Plants that are indigenous to the area and others that are hearty, harmonious to the design, consistent with adjacent land uses, and, where applicable, of good appearance, shall be used. Landscaped parking lot islands shall be designed in accordance with these landscape principles as well as to facilitate snow removal techniques.
- K.) **Parking and Loading Areas.** Off-street parking shall be provided prior to receipt of a Certificate of Compliance from the Township for the main structure or building, with adequate provisions for ingress and egress. Parking areas shall be designed to discourage single, large, unbroken paved lots for off-street parking and shall encourage smaller, defined parking areas within the total parking system. Such defined parking areas shall be delineated and accented by landscaped areas. Parking aisles, whenever possible, shall be oriented perpendicular to the building fronts. All service and delivery and loading areas shall be made to the rear of the structure(s) unless special design treatment or circumstances warrant an alternative. The layout of parking areas, service areas and related entrances, exits, signs, lighting, noise sources or other potentially adverse

influences shall be designed, located and, in certain instances, screened to protect the character of the area as well as those areas adjacent to the development.

- L.) Floodplains and Environmentally Sensitive Areas. Floodplains shall be protected from building or pavement encroachment. A riparian buffer shall be provided for stream beds along the entire length and on both sides of a river or Perennial Stream Channel. The buffer area shall have a width of not less than fifty (50) feet as measured from the river, creek or stream high water mark on both sides. The buffer area shall have a width of not less than twenty-five (25) feet as measured from any Tributary stream high water mark on both sides. This buffer area shall be restricted from development and managed to promote the growth of vegetation indigenous to the area capable of maintaining the structural integrity of the stream bank. A wetlands buffer shall be provided for all wetlands required to be retained by the U.S. Army Corps of Engineers or the Ohio EPA. The buffer area shall have a width not less than twenty-five (25) feet, measured from the edge of the designated wetland. The buffer area shall not be disturbed other than as is necessary to establish a natural landscape. Existing trees should be preserved and protected to the extent practicable.
- M.) Utilities. Centralized water supply and sanitary sewage disposal systems and storm water management shall be provided, subject to the Delaware County Sanitary Engineer, Delaware County Engineer, Delaware General Health District, and the Ohio Environmental Protection Agency approval. All utility service lines shall be located underground.
- N.) Fire and Explosion Hazards. All activities, including storage, involving flammable or explosive materials shall include the provision of adequate safety devices against hazard of fire and explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- O.) Air Pollution. No emission of air pollutants shall be permitted which violate the Clean Air Act of 1977 or later amendments as enforced by the Ohio Environmental Protection Agency.
- P.) Dust and Erosion. Dust or silt shall be minimized through landscaping or paving in such a manner as to prevent their transfer by wind or water to points off the lot in objectionable quantities.
- Q.) Liquid or Solid Wastes. No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment, shall be permitted. The standards of the Ohio Environmental Protection Agency shall apply.
- R.) Vibrations and Noise. No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernable without instruments at or beyond the property line of the subject premises. Noise standards of the Ohio Environmental Protection Agency shall be adhered to.
- S.) Odors. No use shall be operated so as to produce the continuous, frequent or repetitive emission of odors or odor causing substances in such concentrations as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. The applicable standards of the Ohio Environmental Protection Agency shall be adhered to.

Section 16.08 – MINIMUM DEVELOPMENT STANDARDS

The Development Plan shall comply with the following development standards:

- A.) Tract Size. The gross area of a tract of land proposed to be developed in the PMUD shall consist of a minimum of three (3) acres, exclusive of right-of-way. No minimum lot size is required. However, all lots shall be of sufficient area to comply with the required yard areas, setbacks and other design and development standards.

- B.) Intensity of Use. All buildings shall be erected on permanent foundations and shall be constructed of conventional building materials of a quality equal to or better than those used in existing buildings in nearby areas or as specified herein. All office and retail activities shall be completely enclosed within buildings, except for patios and similar facilities accessory to any permitted use.
- C.) Residential Density and Location. The Berkshire Township Comprehensive Plan, 2008 as well as the 2015 update, have designated the U.S. 36/S.R. 37 Corridor as an area within the Township targeted as for economic growth. Parcels located along this Corridor provide the ideal location and opportunity for a mix of professional office, commercial, institutional, and Residential Uses within the Township, while allowing for the preservation of net developable acres within the PMUD. A higher density Residential Use is permitted and included in this mix to provide the area with housing for individuals that will work at companies and businesses that locate in and around the U.S. 36/ S.R. 37 Corridor. To achieve this goal, the Township has determined that a density cap be placed on areas within the PMUD.

1. Multi-Family Density. The total number of new Multi-Family Dwelling Units (as defined in **Section 16.09** herein and **Article 4**) proposed to be located within the PMUD shall not exceed a maximum of three hundred (300) Dwelling Units in the Northwest Quadrant of the intersection of I-71 and U.S. 36/S.R. 37, three hundred (300) Dwelling Units in the Southwest Quadrant of the intersection, and seven hundred (700) Dwelling Units in the combined area of the Northeast Quadrant and Southeast Quadrant. The Northeast, Northwest, Southwest, and Southeast Quadrants are shown on the PMUD Overlay Zoning District Map.

Dwelling Units shall be constructed at a minimum density of eight (8) Dwelling Units per net developable acre (d.u./n.d.a.) as defined in Article 4, and a maximum density of twelve (12) d.u./n.d.a. as defined in **Article 4**. Berkshire Township recognizes that it is important to allow flexibility in the design of new developments, but such flexibility must be balanced with the goals and objectives of the community. To this end, this Section provides for varying degrees of potential density bonuses. However, these bonuses are subject to the discretion of the Zoning Commission and are, in large part, dependent upon the Applicant providing meaningful, substantial and additional administrative and design amenities in the form of what are hereinafter referred to as "quality items." Increased density of one (1) Dwelling Unit per quality item may be approved by the Zoning Commission up to a maximum of three (3) additional d.u./n.d.a. (potentially resulting in a total maximum density of fifteen (15) d.u./n.d.a.) if it is determined that any of the following quality items are adequately provided for in the Development Plan:

- a.) If the developer provides 10% additional and useable Open Space than the amount required in **Section 16.08(K)** either on-site or within the PMUD area;
- b.) If the developer provides 30% more landscaping material than required in **Section 16.08(I)** herein.
- c.) If the developer commits to participation in a joint economic development district, a new community authority or such other economic development mechanism as may be approved by the Zoning Commission.
- d.) Any other enhanced feature unique to the site that is deemed by the Zoning Commission to be a similar type of quality item.

Furthermore, any residential proposal shall not only comply with these density requirements, but also shall conform to all other applicable requirements of this **Article 16** including square footage requirements listed in **Section 16.08(E)(3)**.

2. Other Densities. Other types of residential units may be built without limitations noted under **Section 16.08(C)(1)** herein. Such units may be developed at a maximum density of four (4) d.u./n.d.a. for single-family units and six (6) d.u./n.d.a. for attached units such as common wall attached, townhomes, patio homes, or four-unit structures.
3. Location. All multi-family residential proposals shall abut existing or simultaneously-proposed and developed commercial, office, or industrial uses with a continuous length of at least 20% of the perimeter boundary of said multi-family proposal. Location of residential development is limited by the following restrictions:
 - a.) In the Northwest Quadrant as delineated on the PMUD Overlay Zoning District Map, no non-Residential Uses nor multi-family Residential Uses may be developed further than one thousand seven hundred (1,700) feet from the centerline of U.S. 36/S.R. 37, and no multi-family Residential Uses shall be developed within four hundred (400) feet of the centerline of U.S. 36/S.R. 37.
 - b.) In the Southwest Quadrant as delineated on the PMUD Overlay Zoning District Map, no multi-family Residential Uses may be developed within four hundred (400) feet of the centerline of U.S. 36/S.R. 37.
 - c.) In the combined area of the Northeast Quadrant and Southeast Quadrant as delineated on the PMUD Overlay Zoning District Map, no multi-family Residential Uses may be developed within four hundred (400) feet of the centerline of U.S. 36/S.R. 37.
- D.) Frontage, Setbacks and Yard Areas.
 - 1.) Frontage. Lots shall front upon and/or have access to an improved, public road. Outlots may be located on an improved, public or private road. Road frontage in either case shall be no less than fifty-five (55) feet.
 - 2.) Minimum Side Yard per Tract. A side yard of at least twenty-five (25) feet on each side of the tract shall be provided for principal and accessory structures, processing, and servicing or loading areas, or as authorized by an approved Development Plan. No principal commercial or multi-family structure shall be located closer than twenty-five (25) feet to another principal structure unless the adjacent walls of both structures are masonry, in which event said principal structures shall be no closer than fifteen (15) feet. No principal commercial or multi-family structure shall be located closer than fifteen (15) feet to another principal structure. No principal single-unit Residential Use may be closer than fifteen (15) feet to another principal single-unit Residential Use.
 - 3.) Minimum Rear Yard per Tract. A rear yard of at least twenty-five (25) feet shall be provided for principal and accessory structures, including open storage, processing, and servicing or loading areas, or as authorized by an approved Development Plan.
 - 4.) Additional Setback. No building or structure shall be located closer than thirty (30) feet to the right-of-way. There shall also be a clear strip of land extending to a width of at least twenty (20) feet to the right-of-way upon which no building, structure, sign or any other improvement shall be erected with the exception of the following:
 - a.) Driveways for ingress and egress.
 - b.) Parking approved in accordance with the approved Off-Street Parking and Loading Plan.
 - c.) Signs not over four (4) square feet for direction of traffic only.

- d.) Plantings no higher than three (3) feet above road grade.
- e.) Trees, except that branches shall not interfere with the paved portion of the road and shall be trimmed to a height of six (6) feet from the ground.
- f.) Utility easements for the erection of public utility poles, hydrants and similar items.
- g.) Sidewalks and Bike Paths.
- h.) Patios not exceeding ground level elevation, by more than eight (8) inches.

E.) Lot Coverage and Building Height.

- 1.) Lot Coverage. The ground area occupied by all the buildings, structures, driveways, traffic circulation areas, parking areas, sidewalks and all other Impervious Surfaces shall not exceed in the aggregate eighty percent (80%) of the total area of the tract.
- 2.) Building Height.
 - a.) Multi-Family Dwellings: No building or structure for any permitted use shall exceed two (2) stories in height. Chimneys, flagpoles, parapets, cupolas and other similar architectural elements may exceed this height limitation by no more than eight (8) feet.
 - b.) All Other Principal Structures: No building or structure for any commercial or office use shall exceed sixty-five (45) feet in height. Chimneys, flagpoles, parapets, cupolas and other similar architectural elements may exceed this height limitation by no more than ten (10) feet.
- 3.) Building Dimensions. Buildings may contain such floor area as is approved in the Development Plan. However, all multi-family residential units erected within the PMUD shall have a minimum of eight hundred (800) square feet of residential floor area for a one-bedroom unit and a minimum of nine hundred (900) square feet of residential floor area for a two-bedroom unit.
- 4.) The use of environmentally conscious construction standards, such as the use of Leadership in Energy & Environmental Design (LEED) standards, on structures built in the PMUD district is encouraged by the Township, but not required.

F.) Architectural Standards. Buildings shall be designed to be seen from three hundred sixty (360) degrees and have the same caliber of finish on all elevations. Building additions and accessory structures, whether attached or detached, shall be of similar design, materials, and construction to that of the existing or principal structure. The following standards shall apply to structures for:

- 1.) Design Elements. The architectural style and design of structures shall create harmony throughout the site. All materials used to construct buildings within the PMUD shall be utilized in such a manner as to be architecturally and aesthetically compatible, so long as the proposal utilizes the permitted materials as specified by **Section 16.08(F)(2) below**. Creativity in design is encouraged; however, that creativity shall be consistent with the goals and requirements established for the PMUD by this **Article 16**.
- 2.) Materials. The exterior elevations of all proposed buildings and screening structures shall only consist of any or any combination of all of the following natural materials:
 - a.) Wood;

- b.) Red or earth tone brick;
- c.) Native or cultured stone;
- d.) Stucco/EIFS;
- e.) Pre-cast concrete where used as an accent;
- f.) Cementitious siding (such as HardiPlank® or similar) and/or composite siding (such as SmartSide® or similar);
- g.) Metal and glass (except for multi-family uses);
- h.) Any materials including vinyl siding, deemed by the Zoning Commission to be acceptable substitutions for the above natural materials.

The above material requirements shall not be applicable to vinyl soffits, fascia windows, downspouts, gutters, window glazing and reveals, as well as hardware and similar accents.

- 3.) **Façade Appearance.** A building wall that exceeds a width of fifty (50) feet shall incorporate sectioning and design elements that offset the wall plane to inhibit a large expanse of blank wall and add interest to the façade. When multi-family uses are part of a structure, such design elements shall include:
 - a.) A door measuring at least twenty (20) square feet in area and forty-five (45) square feet in area including architectural features, such as, but not limited to, an awning, window, faux window or other feature subject to approval by the Zoning Commission;
 - b.) A window of at least six (6) square feet in area. Windows closer than ten (10) feet shall be considered as one (1) element. A set of adjacent windows, such as double or bay windows, shall be considered one element;
 - c.) A gabled vent of at least four (4) square feet in area;
 - d.) Porches, decks, or similar structures that create the illusion of a porch, deck, or window balcony; or
 - e.) A similar significant permanent architectural feature consistent with the style of the building upon approval of the Zoning Commission, as applicable.
- 4.) **Glass.** The use of black, gold, green, silver, opaque, or any other reflective or colored glass on a building is prohibited. Frosted glass may be permitted in some cases, subject to approval of the Zoning Commission.
- 5.) **Roofing.** All pitched roofs shall be of dimensional shingles, standing seam metal, slate or simulated slate.
- 6.) **Drive In/Drive Thru Features.** A drive in/drive thru facility, if deemed appropriate within the PMUD, shall be designed as an integral part of the structure it serves. Features incorporated with such a facility include, but are not limited to, canopies, awning, and support posts, which shall match or be coordinated with the materials and color scheme of the building they are serving. Drive in/drive thru features shall not have any pickup windows, ordering areas, signage, or other related items located on the front elevation of a building or located between the building and a right-of-way.

- 7.) In-Line Retail Exemption. Side or rear elevations of an In-Line Retail development may be exempt from the building design standards of the PMUD if such elevations are not visible to customer traffic, a right-of-way, or if a future phase of the In-Line Retail development is adjacent to the elevation. Such exempt elevations shall use materials complimentary to the primary elevation and be screened by landscaping, mounding, fencing, or a combination thereof, as deemed appropriate.
- G.) Exterior Lighting. The Exterior Lighting Plan is subject to the following requirements:
- 1.) Traffic signals, where necessary, shall utilize a monopole design with mast arms extending over the intersection, in accordance with any applicable county or state regulations.
 - 2.) Site lighting shall be required for all developments and be designed to sufficiently illuminate the site and minimize spillover from the property.
 - 3.) Light pole heights should be in harmony with the parcel, building, and parking lot size as well as the surrounding area. Parking lot lighting shall be of a standard light source and type. The style shall reflect a traditional design, ideally consistent throughout the corridor.
 - 4.) Building, pedestrian and landscape lighting may be incandescent, metal halide or other sustainable lighting as determined by the Zoning Commission.
 - 5.) All parking lot areas shall have a maximum light intensity of twenty (20) foot candles and an average light intensity between one (1) foot candle and three (3) foot candles.
 - 6.) All external lighting shall be decorative, cut-off type fixtures and downcast to reduce spillover. Outdoor lighting shall be directed, reflected, or shielded so as not to be of excessive brightness or cause glare hazardous to pedestrians or drivers, create a nuisance or unreasonably interfere with a neighboring property owner's right to enjoy his property. Light spillover shall not exceed one tenth (0.1) foot candles when adjacent to a residential zoning district or an existing Residential Use.
 - 7.) Luminaries should have a minimum cut-off of forty-five (45) degrees, so as to provide glare control to pedestrian and vehicular traffic, as well as distinct beam cut-off on the outer perimeter of the setback areas.
 - 8.) All Landscape Uplight Fixtures shall be screened by landscaping and cut-off in design. This type of lighting shall be equipped with automatic timing devices and shielded and focused to minimize light pollution.
 - 9.) No permanent colored lights or neon lights shall be used on the exterior of the buildings. Flashing lights shall be prohibited.
 - 10.) External building lighting shall be limited to wall-mounted sconces.
- H.) Signage. Graphics and Signage in the PMUD shall conform to **Section 16.07(I)** and **Article 22** of the Zoning Resolution or as approved by the Zoning Commission.
- I.) Landscaping. All yard areas and Open Spaces shall be landscaped in accordance with the approved landscape plan. Natural foliage shall be retained as buffers where practicable. The Landscape Plan shall comply with the following requirements:
- 1.) Right-of-Way. Any surface parking areas adjacent to an existing or planned right-of-way shall be screened from the respective right-of-way with shade trees having a minimum caliper of two and a half (2½) inches for every forty (40) lineal feet of road frontage, and shall be located three (3) feet outside

of the right-of-way. This requirement does not apply in the areas of ingress and egress, or to existing trees which are undisturbed by the project.

- 2.) Residential District Screening. Non-Residential Uses, excluding multi-family accessory uses, adjacent to Residential Uses (both within and adjacent to the PMUD) shall install a continuous planting hedge and tree combination to provide screening from such adjacent use. The required planting hedge and tree combination shall be a minimum of six (6) feet in height at the time of installation. Mounding may be used to achieve the required height and fencing. Fencing or other screening materials shall be made of those materials listed in **Section 16.08(F)(2)** or deemed compatible with those materials. Each tree used for screening purposes shall have a minimum caliper of two and a half (2 ½) inches per forty (40) lineal feet required to be screened. Trees used for screening shall be of the evergreen or deciduous classification.
- 3.) Exterior Areas. Grass (seed or sod), shrubs, trees, garden planting areas or other appropriate landscape materials shall be planted in all exterior areas. Other groundcover, such as ivy, may be planted in exterior areas which are not occupied by required landscaping material or required for drainage. All vacant areas shall be kept seeded and maintained in such a manner as to prevent erosion of the property and excess drainage.
- 4.) Plants. All plants shall meet or exceed the American Standard for Nursery Stock as set forth by the American Association of Nurserymen.
- 5.) Maintenance. All trees and landscaping shall be well maintained. All maintenance and upkeep of landscaping shall be the responsibility of the owner of such yard, space or area where the landscaping is located. Dead trees, shrubs and other landscaping material shall be promptly removed and shall be replaced within six (6) months or the next planting season, whichever is sooner.
- 6.) Street Trees. Trees shall be planted at a minimum distance of forty (40) feet along all internal public streets. Trees shall be of deciduous species normally attaining full-grown height in excess of fifty (50) feet and shall be of two (2) to two and a half (2 ½) caliper or greater at the time of planting.
- 7.) Tree Preservation. Reasonable and good faith efforts will be made to preserve existing trees. Consideration shall be given to laying out service roads, lots, structures and parking areas to avoid the unnecessary destruction of wooded areas and individual trees. Additionally, standard tree preservation practices shall be used to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line.
- J.) Parking and Loading. Parking shall be paved prior to receipt of a final Certificate of Compliance, with adequate provisions for ingress and egress according to the approved Development Plan, unless a phasing schedule is approved as part of the Development Plan. In preparing the Parking and Loading Plan, all parking and loading areas shall conform with **Section 21.01** of the Berkshire Township Zoning Resolution and the following provisions:
 - 1.) Parking Bays and Minimum Parking Space Requirements. No parking bay shall contain more than twenty-four (24) total parking spaces, with a maximum of twelve (12) spaces in a single row. All parking spaces shall be not less than nine (9) feet wide and eighteen (18) feet long.
 - 2.) Parking Lot Location. Non-Residential Uses may be permitted to locate parking spaces in front of the principal structure if authorized by the approved Development Plan, provided that such parking complies with all other criteria contained in this **Article 16**. All parking spaces for Multi-Family Dwellings shall be located behind or to the side of the principal building with no more than fifty percent (50%) of such parking spaces located to the side of the principal building. No parking lot or parking area shall be located closer than ten (10) feet to the side or rear line of the tract on which the structure is located.

In no event shall the parking be located closer than twenty (20) feet to any right-of-way, unless authorized by the approved Development Plan.

- 3.) **Parking Lot Islands.** Interior tree islands shall be required within parking lots and shall be of sufficient number and size to provide for a ratio of one (1) shade tree for every twelve (12) parking spaces or fractions thereof. Each landscaped tree island in a single loaded parking stall shall have a minimum area of one hundred sixty-two (162) square feet with a minimum width of nine (9) feet. Each landscaped island in a double-loaded parking stall design shall have a minimum area of three hundred twenty-four (324) square feet, with a minimum width of nine (9) feet. Parking lot islands may be combined into one (1) or more larger parking lot islands, so long as they meet the area and landscaping requirements of this Zoning Resolution and are approved as part of the Development Plan. All landscaped tree islands shall contain at least one (1) shade tree a minimum of two (2) inches in caliper and include at least fifty (50) square feet of other plant materials. The Parking and Loading Plan or the Landscape Plan shall identify all types of trees to be used in parking lot islands.
- 4.) **Driveways.** Driveways shall be set back no less than fifteen (15) feet from the right-of-way or front property line, whichever is greater, and no less than five (5) feet from side and rear property lines. Driveways connecting the site to an improved and dedicated street or Driveways utilized to access adjacent properties shall be exempt from this requirement. Location of Driveways that connect to a public road shall be reviewed and approved by the appropriate governing agency (Delaware County Engineer, Ohio Department of Transportation, etc.).
- 5.) **Service Parking.** Service parking shall be provided at a level determined appropriate for each specific use by the Zoning Commission, as applicable. All service areas shall be located behind the front elevation of the primary building.
- 6.) **Minimum Number of Parking Spaces Required.** For multi-family proposals, a minimum of two and one-fourth (2¼) parking spaces for each Dwelling Unit is required. For all other buildings constructed in the PMUD, a minimum of one parking space per two hundred fifty (250) square feet of building area shall be required. Applicants may elect to provide one (1) space per employee plus one (1) visitor space per ten (10) employees if the Development Plan shows that there is sufficient room to expand the parking lot to provide the required amount of spaces in the future should the lot be sold to a new owner or the needs of the business change. The Zoning Commission may require the applicant to submit a signed letter with the Development Plan stating that the remaining spaces will be provided if requested by the Township.
- 7.) **On-Street Parking in Multi-Family Proposals.** In Multi-Family Dwelling proposals in the PMUD, an applicant may be allowed to count parallel or angled On-Street Parking spaces located along private streets towards the minimum parking requirements of this PMUD, so long as those parking spaces are within a three hundred (300)-foot radius of any entryway to the proposed Multi-Family Dwelling structure(s). Those parking spaces shall be striped and meet the minimum size requirements for off-street parking spaces, as described by this **Section 16.08(J)** and the Zoning Resolution. On-Street Parking located along a public street within a three hundred (300)-foot radius of any entryway to the proposed Multi-Family Dwelling Structure(s) may also be counted toward the minimum parking requirements of this **Section 16.08(J)** and the Zoning Resolution, so long as On-Street Parking along those streets has been approved by the Board of Trustees in accordance with Section 505.17 of the Ohio Revised Code and complies with the regulations adopted in accordance with the same. Any On-Street Parking utilized to meet the minimum parking requirements of this **Section 16.08(J)** or the Zoning Resolution, whether along a private street or public street, shall only be permitted in accordance with an approved Development Plan. Once a parking space has been counted toward the parking requirement for any Application or phase of a Multi-Family Dwelling proposal, it cannot be used to meet the parking requirements of subsequent phases or Applications. In all cases, On-Street Parking spaces shall not exceed twenty-five percent (25%) of the minimum number of spaces required.

- 8.) Loading Areas. All loading areas shall be screened from view by landscape planting (which provides seventy-five percent (75%) opacity), or walls and fences at least six (6), but not more than twelve (12), feet in height. All walls and fences used for screening shall be constructed of materials permitted by **Section 16.08(F)(2)** of this Resolution.
- K.) Open Space. A minimum of thirty percent (30%) of the total PMUD acreage shall remain and be utilized as Open Space. Twenty percent (20%) open space must be located on-site while the remaining 10% may be located either on-site, off-site, or mitigated with a contribution in lieu to be utilized for public improvement. Such contribution will be at the rate of \$10,000 per acre or fraction thereof. Such contributions will be placed in a special fund by the Township and used only for the improvement or acquisition of park areas, recreational facilities, playgrounds, trails, or wetlands.
- Open Space shall be distributed throughout the development as part of a unified open space system, which shall serve to unify the development visually and functionally, and buffer surrounding land uses. Open Space features may include, but are not limited to bike paths, walking paths, existing bodies of water, water impoundments, forested and landscaped areas not included in a yard requirement, and similar features. Open Space may be used for the disposal of storm water drainage. No features shall be designed which are likely to cause erosion or flooding.
- To help promote the creation of a unified open space system, an open space master Development Plan may be submitted that may only include the areas within the PMUD that will be utilized in the open space system. Once an open space master Development Plan is approved, future applicants within the PMUD may be permitted to utilize that Open Space to meet up to half of the Open Space requirement for their proposed Development Plan. If a portion of the area included in the open space master Development Plan is utilized by an approved Development Plan to meet an open space set aside requirement, it can no longer be utilized by future applicants for that purpose.
- The responsibility for the maintenance of all Open Space shall be specified by the applicant in writing within the Development Plan. Open Space may be proposed to be owned by an Association, the Township or other governmental entity, a land trust or other conservation organization recognized by the Township, or by a similar entity, or may remain in private ownership if appropriately restricted.
- L.) Multi-Use Paths and Pedestrian Access. Interconnectivity shall be provided for pedestrians and non-motorized uses. Sidewalks shall be located along internal streets and roads with additional facilities through open spaces and connections at logical locations. Wider bike paths shall be provided on at least one side of larger arterial roads and where connections to regional systems are warranted. Larger proposals should include a master bikeway/pedestrian plan.
- M.) Trash and Garbage Control. All trash and garbage shall be stored in container systems which are located at the rear of the building or at the side of the building if the side is not oriented towards an existing or planned right-of-way(s) and must be enclosed on all four (4) sides with either a masonry enclosure or wood fencing at a minimum of six (6) feet in height.
- N.) Utilities. All utility lines constructed to service the proposed development shall be located underground. Mechanicals, whether roof mounted or on the ground, shall be screened with architectural features and/or landscaping.
- O.) Stormwater Basins. Dry retention basins are prohibited. All stormwater basins shall be wet basins and aeration devices may be required. Bioretention basins, or rain gardens, may be used only when approved by the Zoning Commission as part of the Development Plan. All stormwater basins shall be constructed per the requirements of the Ohio Department of Natural Resources Rainwater and Land Development Handbook and any applicable standards adopted by the Delaware County Engineer.

- P.) Supplemental Conditions and Safeguards. The Zoning Commission may impose additional conditions relating to the Development with regard to the type and extent of the public improvements to be installed; landscaping; improvements and maintenance of Open Space areas; and other development characteristics.
- Q.) Other Requirements. Unless specifically supplemented by the standards contained in **Article 16** herein or those standards approved by divergence, the general development standards found in **Article 21** of this Zoning Resolution shall apply.

Section 16.09 – Definitions

The following definitions shall apply to terms that are used specifically in the Planned Mixed Use District. Otherwise, the definitions in **Section 4** shall apply.

Floor Area:

- a. **Residential** – the square foot area of a building at all finished levels, within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages, exterior stairways, secondary stairways, and unfinished basements and attics.
- b. **Non-Residential** – the square foot area of a building at all levels, whether finished or not, including open porches, breezeways, terraces, garages, exterior stairways, secondary stairways, unfinished basements, attics, and mezzanines.

Impervious Surfaces: areas that have been, or are proposed to be, paved and/or covered with buildings and materials that do not readily and freely absorb and/or allow water to penetrate, including, but not limited to, concrete, asphalt, rooftop, blacktop, brick, blocks, and pavers.

In-line Retail: a retail complex consisting of stores or restaurants in adjacent spaces in one continuous, long building or structure typically having a parking area in front of the stores that opens to a public street.

Landscape Uplight Fixture: a light fixture sitting on the ground that is incorporated into landscaping that shines upward and is typically utilized to illuminate certain architectural or landscaped features.

Multi-Family Dwelling: for the purposes of Article 16 only, Multi-Family Dwelling is defined as a residential building arranged or designed for more than four (4) Dwelling Units as separate and complete housekeeping units.

Non-Residential Use: any use of land that is permitted by the Berkshire Township Zoning Resolution and does not include the human inhabitation of a structure or any use incidental or accessory to such inhabitation.

Outlot: a lot located adjacent to a public or private street in a larger, commercial style development that is reserved for a specific use.

On-Street Parking: striped, angled, or parallel parking spaces that are permitted within the right-of-way or along a private street.

Parking Aisle: the traveled path through an off-street parking lot or facility between one or two rows of parked vehicles.

Parking Bay: a row of parking spaces typically separated by a parking island or some other feature used to break up large expanses of asphalt used for surface parking.

Perennial Stream Channel: a stream that flows in a well-defined channel throughout most of the year under normal climatic conditions.

Private Road: a road or driveway on privately-owned property, limited to the use of the owner or a group of owners who share the use and maintain the road without help from a government agency.

Public Road: any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

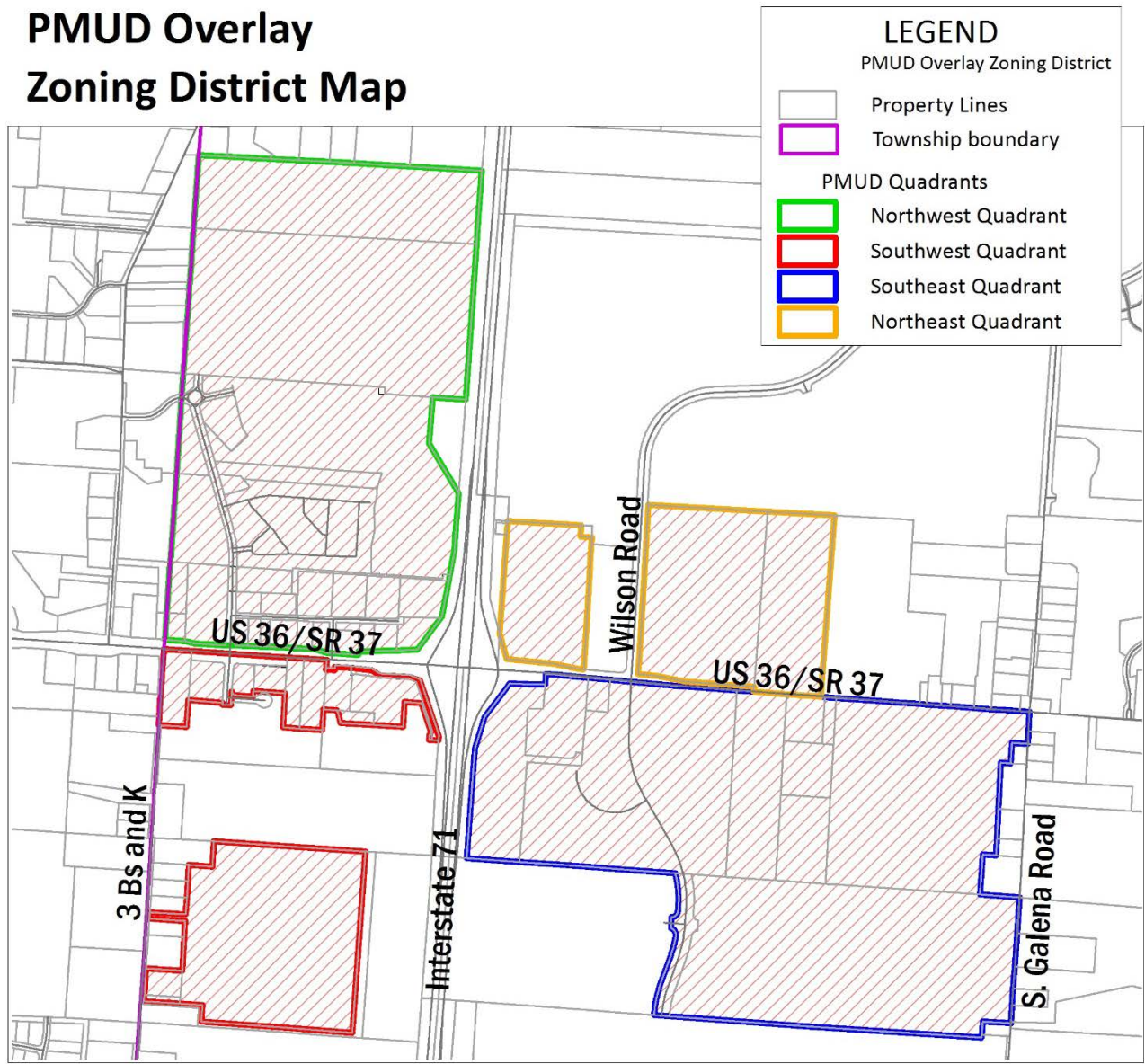
Residential Use: any permitted use of land where a dwelling has been constructed with the intent of human habitation of that structure. Structures may be Detached Single Family Dwelling, Two Family Dwelling, or Multi-Family Dwelling. Residential Uses also include all uses that are incidental to or accessory to the human habitation of a structure.

Road or Roadway: each road is defined by its classification as those classifications are delineated in **Section 21.09** of this Zoning Resolution.

Side Yard: An open space extending from the front yard to the rear yard between a building or structure and the nearest side lot line unoccupied and unobstructed from the ground upward.

Tributary: any stream or waterway that flows to a larger stream or other body of water.

Attachment 1 **PMUD Overlay** **Zoning District Map**



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