

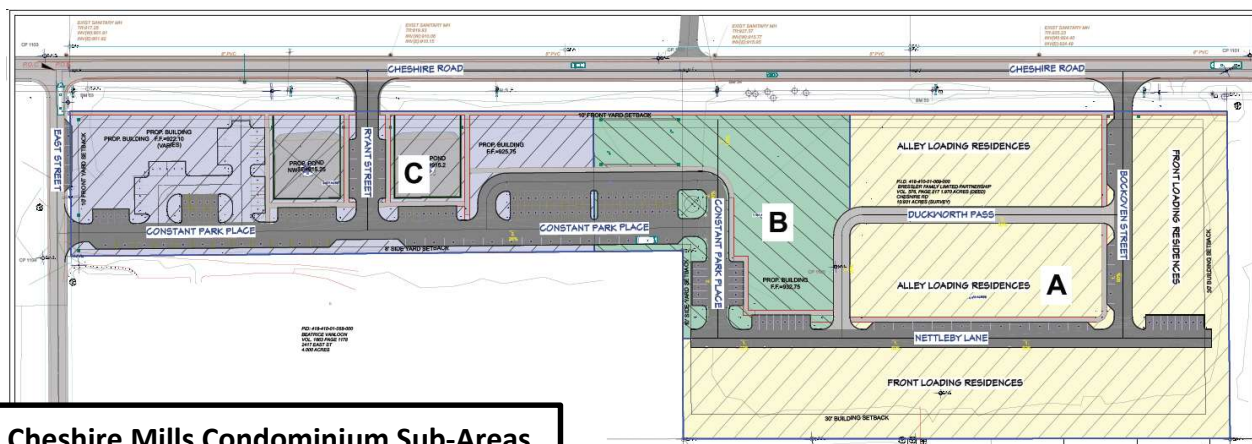
## OLD CHESHIRE PLANNED UNIT DEVELOPMENT DISTRICT TEXT FOR THE CHESHIRE MILLS CONDOMINIUM DEVELOPMENT

### 1. DESCRIPTION OF DEVELOPMENT (Sec. 18.03(D)(5)(a))

Cheshire Mills Condominium is a proposed development on two adjacent parcels identified by the Delaware County Auditor as PID 41841001069000 (3.919 acres) and PID 41841001070000 (7.051 acres) (together, “the Parcels”), currently owned by the Bressler Family Limited Partnership, and located in Berlin Township, Delaware County Ohio. The Parcels are situated along the southeast corner of Cheshire Road & East Street, across from The Shires and Double Eagle parcels. JiAngelo Builders llc, an Ohio Limited Liability Company (“the Developer”), is in contract to purchase the Parcels. The Parcels are both currently zoned Neighborhood Commercial District (NCD) within the Old Cheshire Planned Unit Development District (OCPUD), an overlay district adopted on July 28, 2004, by Berlin Township.

The Parcels are situated within the historic Village of Cheshire, which Berlin Township’s Comprehensive Land Use Plan 2023 refers to as “Planning Area Nine.” Therein the recommended redevelopment is a mixed use that permits residential use at up to five units per net developable acre, and local commercial uses, preferably in a downtown with historic architectural syntax, on-street angle parking, sidewalks, street trees, and shallow or zero setbacks.

Currently, the Village of Cheshire’s existing commercial uses extend from Africa Road to East Street along Cheshire Road. Based on current Zoning regulations & Comprehensive Plan recommendations, the Developer proposes that the Parcels be developed as a single mixed-use condominium with three distinct Sub-Areas. Cheshire Mills development would commence at the corner of East Street with a downtown village-style of mixed-use buildings, and a pocket park situated across from the new Shires development. At the Village limits, Cheshire Mills would end with a collection of uptown cottage residences styled similar to the Township’s rural subdivisions.



1. **Sub-Area A** would offer up to 36 residential dwelling units (du), based on market conditions.
2. **Sub-Area B** would consist of active and passive open space, including recreational amenities open to the public, and private residential amenities & facilities.
3. **Sub-Area C** would offer a mix of allowable NAICS commercial uses, including any excess

residential dwelling units not built in Sub-Area A (up to the 45du max permitted overall.)

**2. GENERAL DEVELOPMENT STANDARDS (Sec. 18.03(D)(5)(a))**

1. **Purpose and Intent.** It is the intent of the Developer to provide a planned residential/commercial mixed unit type development with high quality site improvements and architectural design. This Development Text represents the zoning requirements for this development. The development standards contained within this Development Text and the plans accompanying it shall govern the development of the Parcels. In the event this Development Text or the accompanying plans conflict with any provision of the Berlin Township Zoning Resolution, this Development Text and the accompanying plans shall govern and control. To the extent that a development standard is not contained herein, then the pertinent provisions of the Berlin Township Zoning Resolution, and in particular, but without limitation, the provisions of Article 18 (Old Cheshire Planned Unit Development District), shall govern and control.
2. **Conformance with Codified Ordinances and Township Policy.** Unless noted otherwise within this development text, all development of the Parcels will be constructed and provided in conformance with the then current Codified Ordinances and Township Policy in effect at the time of application.

For consistency, the interpretation of terms or words used shall be as defined within The Ohio Building Code (OBC) and The Residential Code of Ohio for One-, Two-, and Three-family Homes (RCO), as adopted by the State of Ohio and The Building Code of Delaware County, Ohio, which are incorporated by reference herein and made part of this Development Text.

3. **Limitations.** Nothing in this text shall prohibit additional restrictions or requirements from being placed on the approval of any Final Development Plan (FDP).
4. **Major Modifications.** Once a Final Development Plan has been approved by Township, any subsequent major modification to that plan shall only be permitted by resubmission and approval of a revised Final Development Plan through the procedures set forth in the Zoning Code. Major modification for the purposes of this text shall mean any modification of the approved Final Development Plan, as determined by the Zoning Officer, that results in:
  - (1) Any major change in the use or occupancy other than those uses specifically listed in this text.
  - (2) Major change in the approved location of land uses and/or buildings and building sizes of more than 10%.
  - (3) Substantial alteration of the basic geometry of the road layout and/or operation characteristics of any element of the approved access points that result in a major change in operating characteristics or character.
5. **Minor Modifications.** Once a Final Development Plan has been approved by the Zoning Commission, any subsequent minor modification to that plan shall only be permitted by resubmission and approval by the Zoning Inspector of a revised Final Development Plan. Minor modification for the purposes of this text shall mean any modification of the approved Final Development Plan, as determined by the Zoning Officer, that results in:

- (1) Any modification that is not considered a major modification by this Zoning Text or by determination of the Zoning Officer.
- (2) Any minor change to the use or occupancy of the structures onsite other than those uses specifically allowed in this text or any minor changes to the approved site layout.
- (3) Minor alteration of the basic geometry of the road layout and/or operation characteristics of any element of the approved access points that result in a change in operating characteristics or character.
- (4) Minor structural alterations that do not alter the overall design intent of the dwelling units.

#### 6. Preliminary & Final Development Plan

- (1) The proposed site plan and the development text require both Preliminary and Final Development Plan approval by the Township's Zoning Commission Members.
- (2) Each submission for buildings or structures proposed shall include a scaled set of site plans, including buildings, elevations data, and landscaping planned which shall be reviewed by the Zoning inspector for compliance with the approved Final Development Plan. Each submission must be granted an approved zoning permit prior to submitting said plans to the Delaware County Building Department.

### 3. SITE PLAN (Sec. 18.03(D)(5)(a))

The approximate 10.97-acre property along Cheshire Road is proposed to have up to 45 single family detached and attached units, recreational facilities, and commercial buildings in three Sub-Areas. The subject site would be accessed at (3) locations, along East Street from Constant Park Place (private), and along Cheshire Road, from Ryant Street (private), both would offer immediate access to the downtown buildings. And further east, along Cheshire Road, from Bockoven Street (private) would offer access to the uptown residences.

1. **Sub-Area A** would offer up to thirty-six (36) 1-2-3 family dwelling units, based on market conditions. Construction of units would be governed by the Residential Code of Ohio for One-, Two-, and Three-Family Dwellings. The build envelope locations of the dwelling units in Sub-Area A are as shown on the drawings.
2. **Sub-Area B** would consist of active and passive open space, including recreational amenities open to the public, mixed with distinct member amenities & facilities. The Developer shall construct a concentric basketball court, twin bocce courts, and playground equipment.
3. **Sub-Area C** would offer up to 10,000 net square feet of mixed commercial space in a mix of allowable NAICS commercial uses and may additionally include an additional number of residential dwelling units which, when added to the residential dwelling units constructed in Sub-Area A, shall not exceed a total of forty-five (45) dwelling units per net developable acre across the development. Construction of mixed uses would be governed by the governed by the Ohio Building Code requirements for commercial/residential mixed-use separations. The building envelope locations of the mixed-uses in Sub-Area C are shown on the drawings.

**4. SITE USES (Sec. 18.03(D)(5)(a))**

1. **Uses.** The following uses shall be considered permitted, conditionally permitted, or limited uses as represented in the chart below by P, C, or L, respectively, and as defined by attached Article 18 of the Zoning Code. Any use not listed in the chart shall be considered a prohibited use unless amended by action of the Planning Commission through a Zoning Amendment process.

(1) **Permitted Uses.** Permitted uses (P) are permitted by-right and shall meet all development standards specified within this text and the Zoning Code in effect at the time of this application, as applicable.

Use Category	Uses
<b>(a) Sub-Area A</b>	
(1) Residential Development, limited to One-, Two-, Three-family dwellings per the RCO	P
(2) Home Occupations	P
(3) Accessory Use	P
<b>(b) Sub-Area B</b>	
(1) Office Facilities	P
(2) Other Facilities or Amenities	P
(3) Parks, Playgrounds and Playfields	P
<b>(c) Sub-Area C</b>	
(1) Commercial Uses, per the approved NAICS code numbers outlined in Zoning Article 18.02 (I)	P
(2) Residential Development, limited to multi-family dwellings or apartments mixed with any above Commercial Uses, per the OBC	P

(2) **Explicitly Prohibited Uses.**

**In conjunction with, and without limiting, the broad prohibition on any use not listed in the table in this Section 4, the following uses are explicitly prohibited in any Sub-Area:**

A. **Adult Entertainment Businesses:** (also known as sexually oriented businesses) are expressly prohibited from locating anywhere on the proposed Development site.

- B. **Wireless telecommunication facilities:** New, non-small cell towers are expressly prohibited from the entire Development site.
  - C. **Outdoor Storage:** No outdoor storage is permitted on the site, which includes open dumps, mineral extraction, etc.
  - D. **Medical Marijuana:** No medical marijuana principal or accessory uses are permitted on the subject site.
  - E. **Games of Skill:** Accessory or principle for-profit, non-charitable, skill-based gaming uses oriented towards adults and designed to substantially mimic gambling devices such as but not limited to spinning skill stop games but not including traditional video arcade type games typically found in restaurant/party center arrangements, for example Dave & Buster’s, Magic Mountain, and Chuck E. Cheese.
2. **Lot Standards.** Does not apply to condominium parcels since condominium developments are comprised of units and common elements, as opposed to lots.
  3. **Building Setback Standards.** The following standards shall apply for minimum building setbacks, except as otherwise approved on the Final Development Plan. Decorative architectural elements such as canopies and overhangs shall be permitted to encroach into any setback provided that no encroachment shall exceed 5 feet.

Minimum Building Setbacks		
(1) Sub-Area A – Residences	Front Loading Garages	Alley Loading Garages
<i>A.1 (Single Fam. Residences – Five (5) Max)</i>		
A. Front yard setback from curb or sidewalk	15 ft main structure, 21 ft garage entrances,	N/A
B. Side yard setback from curbs, & adjacent building envelopes	10 ft. general 20 ft. from Cheshire	N/A
C. Rear yard setback	30 ft. from adjoining township parcels	N/A
<i>A.2 (Single Fam. Residences – Thirteen (13) Max)</i>		
A. Front yard setback from curb	15 ft main structure, 21 ft garage entrances,	N/A
B. Side yard setbacks including adjacent building envelopes	10 ft general 30 ft from east & west parcels	N/A
C. Rear yard setback	30 ft. from southerly parcels	N/A
<i>A.3 &amp; A.4 (1-2-3 Fam. Residences – Max=36-A.1-A.2)</i>		
A. Front yard setback from curb	N/A	20 ft. from Cheshire Rd. 20 ft. from Nettleby Ln.

B. Side yard setback from curbs, & adjacent buildings	N/A	10 ft. from Duckworth 16 ft. from Bockoven
C. Rear yard setback	N/A	20 ft. North of Duckworth 10 ft. South of Duckworth
<b>(2) Sub-Area B – Facilities &amp; Equipment, excluding sidewalks</b>	<b>Parcel Boundary</b>	<b>Private Streets</b>
A. Front yard setback (excluding sidewalks)	10 ft.	5 ft front courtyards, 15' main structure
B. Side yard setback (excluding sidewalks)	30 ft.	10 ft.
C. Rear yard setback (excluding sidewalks)	50 ft. from adjacent township parcels	10 ft.
D. Playground & basketball court	25 ft.	10 ft.
E. Bocce courts, including pergolas	10 ft.	10 ft.
<b>(3) Sub-Area C – Commercial &amp; Ponds</b>	<b>Parcel Boundary</b>	<b>Private Streets</b>
<i>C.1 – Commercial East</i>		
A. All building setbacks (excluding garaged parking access points)	10 ft. Cheshire Road, 0 ft. Area B/C Boundary Sidewalk Westerly Curb Setback Southerly	6 ft minimum from curbs & parking
B. Detention Pond (excluding sidewalk & any underground detention provided)	25 ft.	10 ft.
<i>C.2 – Commercial West</i>		
A. All building setbacks (excluding garaged parking access points)	10 ft. Cheshire Road, 20 ft. East Street, Curb Setback Easterly Curb Setback Southerly	6 ft minimum from curbs & parking
B. Detention Pond (excluding sidewalk & any underground detention provided)	25 ft.	10 ft.

(4) Bay windows and architectural features associated with fireplaces which may project into a required side or rear yard no more than three feet provided they do not, in the aggregate, occupy more than one-third the length of the wall on which they are located and provided further that they do not project closer than 7 feet to an adjacent building.

(5) Utility meters and mechanical equipment, such as air conditioning units and generators, shall be located at least ten (10) feet behind the front facade of the structure and shall be screened with landscaping material when placement along the side facade of the structure if it directly abuts a private drive/street.

4. **Maximum Building Height.** No principal building shall exceed thirty-five (35) feet in height, measured from the front yard, except as outlined in Section 24.02 of the zoning code.
5. **Minimum Building Size.** The minimum building size for Sub-Area A dwelling units is 1,300 square feet, and Sub-Area C dwelling units shall meet or exceed the standards set forth in Section 18.02(A) of the Berlin Township Zoning Resolution, as amended through August 28, 2019.
6. **Building Designs.** The subject structures shall achieve compliance with Township OCPUD Development Plan Standards, superseded by those divergencies outlined herein. All units shall achieve compliance with the following standards to ensure the intent of this regulation; to create a cohesive and unified design throughout the entire development while varying colors and materials within a consistent overall design, color pallet, material, and architectural pattern as determined through the Final Development Plan review process. Elevations shall not be significantly dissimilar from the preliminary architectural renderings submitted for the preliminary development plan that achieves compliance with the following requirements:

(1) **Architectural Elements**

- A. Similar architectural design elements and details shall be consistent throughout all elevations of the development.
- B. Windows, doors and/or other details must be present on all four sides of the structure in a manner that is consistent but secondary to the treatment used on the front elevation of the primary structure.
- C. **Sub-Area A** – Side elevations shall have a minimum wrap of 2 feet of materials used on the front elevations of the building corners. No brick or stone shall be required on the rear elevations (this elevation shall not be visible to the public) of any buildings.
- D. **Sub-Areas B & C** – Side elevations shall extend the wrap of materials used on the front elevations of the building corners to the next inside corner encountered (which may necessarily include the rear elevations) and all exposed foundations visible to the public shall be of masonry materials (brick or stone).

(2) **Exterior Building Materials**

- A. Brick, stone, stucco, wood siding, or cementitious fiber siding shall be permitted. Combinations of said materials are to be encouraged.
- B. A minimum of 35% of the front façade shall be anchored or adhered to masonry (brick or stone) and shall wrap min. 2' along the sides.
- C. Exterior Insulation Finishing Systems (EIFS) only permitted for accent areas when applied over a traditional stucco substrate.
- D. Vinyl siding shall not be permitted.
- E. Vinyl shakes in gables and accent areas.
- F. Vinyl, metal window or wood windows
- G. Vinyl or plastic detail pieces (i.e. brackets, dentil blocks, etc.)
- H. Other materials used as minor accents with approval of Zoning Inspector.
- I. Designs and color pallet shall be submitted and approved by the Planning Commission.

**(3) Roof Structures/Materials**

- A. Flat, gable, hip shed roof structures or combinations thereof are permitted.
- B. All structures shall have a primary roof structure having a 6:12 minimum pitch, except up to 50% of buildings in Sub-Area C shall be permitted to include a Flat 1:24 minimum pitch as its primary roof structure.
- C. Secondary roof structures shall have either a 3:12 minimum pitch when sloped or a 1:24 minimum pitch when flat.
- D. Eave overhangs shall be a minimum of 12 inches and rake shall be a minimum 4.5 inches.
- E. **Sub-Area A** - Dimensional shingles are required. Standing seam metal & EPDM roofing materials are permitted on porches and secondary roofs only.
- F. **Sub-Areas B & C** – In whole or combined, dimensional shingles, standing seam metal & EPDM roofing materials are permitted here.
- G. Dormers (active and inactive) are permitted.
- H. Shingle colors shall be from the color range of natural materials, such as but not limited to wood shakes, slate, etc.

**(4) Windows**

- A. Windows shall be traditional-style single or double-hung, casements, awnings, or transoms.
- B. Bay windows shall be permitted to be cantilevered.
- C. Common window fenestration shall be used on all elevations.

**(5) Shutters**

- A. Shutters, when used, shall be judiciously and not on every window.
- B. Shutters shall be at full height of the window.
- C. Shutters shall be louvered, raised, flat paneled, or board and batten and must be painted wood, vinyl, synthetic PVC, or Hardiplank.

**(6) Gutters and Downspouts**

- A. Gutters shall be traditional ogee style and made of aluminum material painted to match or complement the house's trim color.

**(7) Chimneys**

- B. All exterior portions of chimneys shall be finished in either masonry or siding to match adjacent materials.

**(8) Garage Doors**

- A. Garage doors shall be appropriate to the architectural style of the home with design elements consistent with the design of the home and development including, incorporate a glass course, add trim packages to give the appearance of stable doors, man doors, hinged swing doors, and other similar architectural elements.

**(9) Exterior Colors**



- A. Siding Colors – applicant shall supply color pallet to be used for review with Final Development Plan.
    - 1. Natural earth tones and/or warm neutral colors including white.
    - 2. High chroma colors are not permitted.
  - B. Trim Colors - applicant shall supply color pallet to be used for review with Final Development Plan.
    - 1. Natural earth tones and/or warm neutral colors including white.
    - 2. Complementary or contrasting to siding color.
    - 3. High-chroma colors are not permitted.
  - C. Garage & Entry Door Colors – applicant shall supply color pallet to be used for review with Final Development Plan.
    - 1. Stained or natural earth tones and/or warm neutral colors including white.
    - 2. Complementary or contrasting to siding & trim colors.
    - 3. High-chroma colors are not permitted.
7. **Storage Standards.** All detached accessory structures shall comply with the Sub-Area setback requirements.
- (1) **Equipment storage:** Storage of all personal property, including equipment, shall be within garages. Such items should not be visible from streets, common open spaces or adjacent developments.
  - (2) **Vehicle storage:** All campers, off-road vehicles (i.e., jet skis, snowmobiles, four wheelers, etc.), commercial vehicles (i.e., box trucks, etc.) and/or boats must be parked within an enclosed garage. No undriveable vehicles or parts of vehicles may be stored outside.
  - (3) **Refuse Storage & Collection:** Residential units shall have a rolling trash receptacle that shall be always stored in the garage, except for 24 hours before its appointed scheduled pickup when it may be placed at the end of a unit’s driveway for pickup by the Township’s contracted refuse collection service. Each commercial building shall be provided with a dedicated garage space for a rolling 4cy trash receptacle, or equivalent, which can be picked up and returned to the garage space by the Township’s contracted refuse collection service. The design of said space shall include automatic ventilation through roof to exhaust odors.
8. **Proposed Development Timeline:** It is anticipated that final design and installation of streets, utilities, and common buildings and facilities in the development will take approximately two years to complete from the date of approval. It is further anticipated that construction of the commercial and residential buildings will take an additional three to five years. Construction of the development will be driven by future market conditions and demand.
9. **Parking.** The amount of parking shall be as approved in the Final Development Plan and not substantially inconsistent with the Preliminary Development Plan.
- (1) Each parking space is at least 9 feet x 18 feet.

- (2) On-street parking shall be limited to plan designated areas in each Sub-Area.
- (3) Required Parking ratios shall be calculated for the overall development rather than for individual businesses or residences. Specifically,
  - A. Retail – 1 space per 250 gross square feet
  - B. Office – 1 space per 250 gross square feet
  - C. Residential – 2 spaces per unit.

Without prejudice to the above ratios, Sub-Areas shall adhere to the following minimum standards.

**(4) SUB-AREA A – Residences shall in the aggregate exceed 4 spaces per unit.**

- A. Front loading garage units shall have a two-car garage and two parking spaces in the respective driveway, a designated space perpendicular to the garage doors and not encroaching on any sidewalk. Total of (4) parking spaces per dwelling unit.
- B. Alley loading garage units shall have a two-car garage and min. one parking space in the respective driveway, a designated space parallel to the garage doors is permitted here. Total of (3) parking spaces per dwelling unit.
- C. An additional (26) overflow parking spaces for visitors at four locations are proposed, a combination of (17) parallel and (9) perpendicular parking spaces.

**(5) SUB-AREA B – Park & Facilities shall in the aggregate exceed 36 spaces.**

- A. Minimally 16 perpendicular parking spaces shall be provided for private facilities and amenities reserved for Association members.
- B. 22 tandem parking spaces shall be provided for public patronage of the park facilities and equipment.

**(6) SUB-AREA C – Commercial Mixed-Uses at a minimum shall have 52 spaces here.**

- A. 26 parallel parking spaces, that would permit patrons to park up to 13 vehicles towing boats, shall be provided along the southern side of Constant Park Place.
- B. 17 perpendicular parking spaces shall be provided along the northern side of Constant Park Place facing the detention ponds.
- C. 9 additional parallel parking spaces shall be provided, (3) along East Street, and (6) along Ryant Street.
- D. Additional spaces may be provided within the building envelopes and shall be shown with each plan submission to the Zoning office to ensure available parking continues to satisfy the development's require parking ratios.

10. **Landscaping and Screening.** All landscaping shall meet the requirements of Article 26 Landscaping of the zoning code; except as otherwise provided herein or as approved on the Final Development Plan.

Village Center Guidelines within the Township's Comprehensive Land Use Plans acknowledge the intensity of uses and higher densities of town centers with shallow or zero setbacks of both commercial & residential structures built therein. The inclusion of all necessary utility easements, parking or service areas or proposed areas to service the residences and

commercial uses, collectively renders **Section 26.03 D) 1) Preservation of Existing Landscape Materials, and Preservation of Wooded Areas** moot. In lieu, Developer has provided a preliminary landscape plan for review that additionally shall include,

- (1) At the time of plan submission, each single-family attached and detached unit shall provide intermittent landscaping beds along both front and any side elevations facing public or private streets unless a landscape buffer has already been provided.
  - (2) Along the shared boundaries with adjacent Van Loon parcel evergreen trees and/or deciduous trees as approved by staff shall be planted to supplement any preserved trees in this area to provide a continuous buffer.
  - (3) Existing trees along rear yards abutting the eastern boundary parallel with Bockoven street and along the southern boundary parallel with Nettleby Lane shall be supplemented as approved by staff with evergreen and/or deciduous trees to maintain a continuous buffer to the adjacent single-family homes. Additionally, street trees shall be provided at least every fifty (50) feet along this side of these streets.
  - (4) Coniferous trees shall be planted for screening along the boundary line to the south of the single-family dwelling units to be constructed in the building envelope identified on the drawings as A-2. No mounding shall be used.
  - (5) Deciduous trees sufficient to provide adequate shading around the green space in Sub-Area B shall be planted.
11. **Lighting.** Building, site, and accent lighting shall be provided in accordance with the current zoning and building code at the submittal of the Final Development Plan.
- (1) Site lighting shall be required and shall be reviewed and approved by the Zoning Inspector to ensure that it achieves compliance with Section 24.13 Lighting Regulations.
  - (2) Carriage lighting beside the garage, front & rear entry doors of each unit will be provided for safety and illumination. Warehouse gooseneck down lights over the garage doors are to be encouraged.
  - (3) Landscape lighting shall be provided for safety and ingress and egress purposes only. Fixture lamps shall be LED and shall be shielded by planting or other methods.
  - (4) Style and color of the light fixtures and poles shall be provided at time of Final Engineering Approval.
- J. **Signs.** A comprehensive sign plan shall be provided and approved in conformance with Article 25 Sign and Billboard Regulations of the zoning code and shall be provided as part of the first Final Development Plan.
- K. **Streets.** The private streets shall be constructed to public standards within the development as approved by the Township Engineer and maintained by the Developer until such time that the development is turned over to the condominium association, which shall thereafter maintain, repair and replace the streets as necessary.
- (1) The engineering drawings for such improvements shall accompany the submittal of the Final Development Plan.
  - (2) The site's street layout shall provide full access connections to Cheshire Road via Ryant

Street & Bockoven Street, and to East Street via Constant Park Place.

- L. **Pedestrian/Bike Path.** The Developer seeks to maintain the downtown feel, including shallow or zero setbacks, which Township has recommended for the historic Village of Cheshire.
- (1) The Developer shall construct a private sidewalk on its lands adjacent to Cheshire Road and East Street rights-of-way.
  - (2) A private sidewalk shall be installed on one side of the private streets Bockoven Street, Nettleby Lane & Constant Park Place, and installed on both sides of Ryant Street.
- M. **Fences.**
- (1) Silt fencing shall be used as temporary barriers during construction around vegetation and trees and must be sturdy, at least 2 feet in height and easy to maintain. All temporary fences must be removed prior to the issuance of a certificate of occupancy.
  - (2) Except as part of an approved entry feature, only split-rail fencing shall be permitted within the perimeter setbacks of the project boundary.
  - (3) Privacy style fencing shall only be permitted as part of limited common patio areas designated by the developer or its designee during the initial construction and shall be installed with a 72-inch maximum height.
  - (4) With the prior written approval of the developer or designee, additional fencing may be installed within a dwelling unit's limited common areas provided that,
    - A. Within areas abutting adjacent parcels fencing shall be installed without damaging any trees.
    - B. Fences shall be located no closer than ten (10) feet behind the front façade of a structure and minimum ten (10) feet from any road or parking spaces along the side façade of a structure that directly abuts said road or parking spaces.
    - C. Black wire mesh may be added during or after installation and can be removed anytime.
- N. **Utilities.** All new utilities(s) to be constructed and/or extended within the development shall comply with the Township minimum requirements or as approved by the Township. The engineering drawings for such improvements shall accompany the submittal of the Final Development Plan.
- O. **Open Space:** The developer is proposing the following passive and active opens space for the subject development:
- (1) The northern portion of Sub-Area B fronting Cheshire Road shall be maintained as a pocket park, including playgrounds and playfields open to the public without fee – except for use of any playfields which may be reserved or otherwise regulated by the Developer during business hours with fee.
  - (2) The southern portion of Sub-Area B, near the intersection of Constant Park Place and Nettleby Lane, the developer is proposing a cluster mailbox area within a building

architecturally designed to complement the residences in Sub-Area A. Said building may also provide other facilities or amenities for the use of residents.

- (3) The Developer may incorporate additional features during the engineering phase prior to completion of the Final Development Plan that shall be approved by the Township.

P. **Common Area Maintenance (Sec. 18.03(D)(4)):** There shall be a Master Association that would oversee and manage the overall community and shall maintain all common areas, landscaping, mounding, retention ponds, active open amenities, street trees on private drives, on-street parking areas, private streets, private sidewalks, and the like. All recreational space and equipment shall be privately maintained and open to the public.

Separate Sub-Associations may be created to govern distinct sections of the community. Within Sub-Area A, for example, single-family buildings have different maintenance and insurance requirements than multi-family buildings but would equally share common amenities and facilities expenses. Both Sub-Areas B & C are open to the public to varying degrees, and disproportionately impact infrastructure maintenance & utility expenses compared with the Sub-Area A residences.

- (1) The Common Elements: All the land and all improvements thereon and appurtenances thereto, except those portions labeled or described herein or in the Drawings as a Unit or part thereof, are Common Elements. Except for areas designated as Limited Common Elements and Restricted Common Elements, as set forth below, each Unit shall have the right to access, use and enjoy the Common Elements.
- (2) Limited Common Elements: Those portions of the Common Elements that are labeled or designated "Limited Common Elements" on the drawings are Limited Common Elements. In the case of each Unit, those Limited Common Elements consist of a rear yard, front porch, courtyard and the sidewalk and driveway servicing that particular unit. Each such Limited Common Element is reserved for the exclusive use of the Unit and occupants of the Unit to which it is appurtenant; provided, however, the Developer and its employees, agents and contractors, and successors and assigns, shall have access to the Limited Common Elements for the purpose of fulfilling its responsibilities.
- (3) Restricted Common Elements: Those portions of the Common Elements that are labeled or designated "Restricted Common Elements" on the drawings are Restricted Common Elements. In general, the Restricted Common Elements consist of a structure housing water meters and backflow prevention devices. These Restricted Common Elements shall be separated from the Common Elements and shall not be used for recreational or similar uses or for storage. Notwithstanding the foregoing, the Developer, and its successors and assigns, may take such actions as are necessary to preserve and maintain the Restricted Common Elements.

Q. **Requested Divergences.**

1. Sec. 18.04(H) Minimum Front Setbacks – A divergence is requested to allow certain buildings in Sub-Area A and Sub-Area C to be less than thirty (30) feet from the right of way. Specifically, in area A.1 and A.3 a setback of twenty (20) feet from Cheshire Road is requested, which will require a divergence of ten (10) feet. In area C.1 a front setback of

ten (10) feet is requested from Cheshire Road, which will require a divergence of twenty (20) feet. In area C.2 a front setback of ten (10) feet is requested from Cheshire Road and twenty (20) feet from East Street, which will require divergences of twenty (20) feet and ten (10) feet respectively.

2. Sec. 24.01(E) Required Off-Street Parking Spaces – A divergence is requested to allow single family residential dwelling units to have less than four (4) parking spaces per dwelling unit. Specifically, in area A.3 single family residential dwelling units will each have three (3) parking spaces per dwelling unit, which will require a divergence of one parking space per dwelling unit (note: the specific number of single-family residential dwelling units will be determined by future market conditions).
3. Sec. 24.03 Structure Separation – A divergence is requested to allow principal structures to be located closer than twenty-five (25) feet to another principal structure. Specifically, in Sub-Area A it is requested that principal structures be located no closer than 10 (feet) to another principal structure, which will require a divergence of fifteen (15) feet.
4. Sec. 26.03(D)(1) Preservation of Existing Landscape Materials: A divergence from the requirements of this section is requested to allow for the arrangement and placement of commercial and residential uses that will achieve a quaint development which will create vitality and investment in the Historic Village of Cheshire area.

Each of the foregoing divergences is necessary to achieve a development that meets the intent of the Old Cheshire Planned Unit Development District, as well as the recommendations for the Historic Village of Cheshire Area. Additionally, none of the foregoing divergences are substantial or detrimentally impact any adjoining properties. Accordingly, it is requested that each divergence be approved per plan.