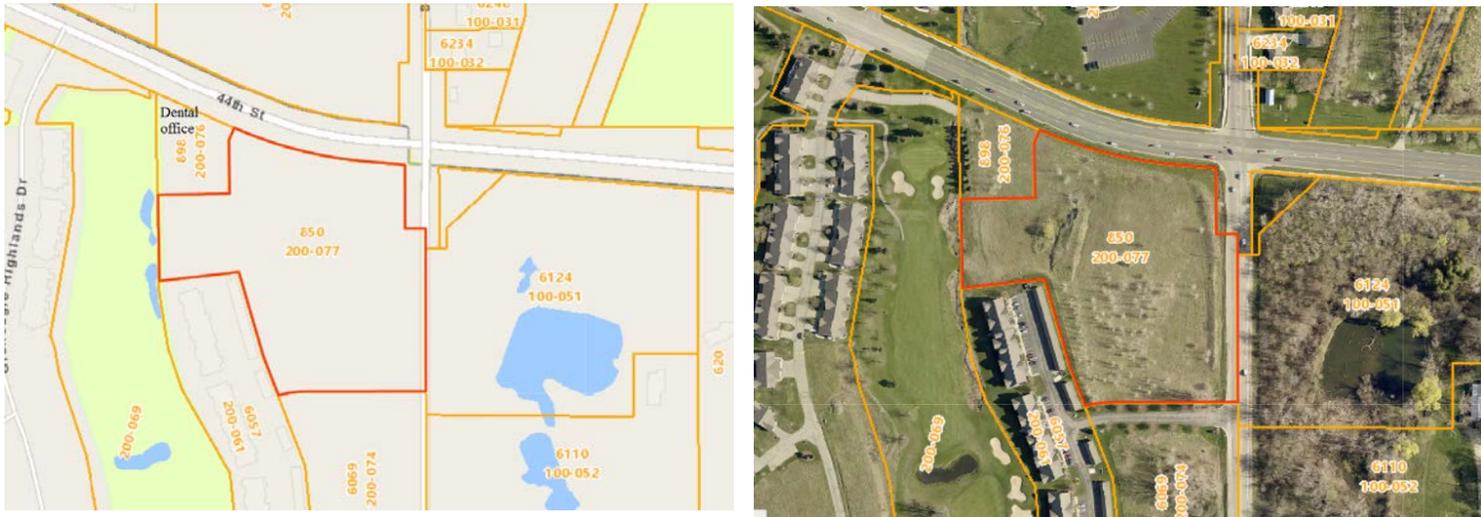


REQUEST

(PUD1603-01) Final Development Plan for phase 1 for the 44th St./8th Ave. PUD, for a gas station/convenience store, retail/bank building, drive-through restaurant and three apartment buildings on a parcel of land described as P.P. # 70-14-26-200-077, located at 850 44th St., in a (PUD) Planned Unit Development district, Georgetown Township, Ottawa County, Michigan.

The request is for approval for the final development plan for phase 1 for the revised preliminary PUD. The narrative states that the gas station and one apartment building by the golf course will be constructed first.



HISTORY

At the **May 3, 2006** meeting, the Planning Commission recommended approval of the preliminary plan and rezoning with motion #060503-02 and at the May 8, 2006 meeting, the Township Board approved the preliminary plan and rezoning with motion #060508-06. No final development plan was submitted or approved.

At the **February 4, 2015** meeting, the Planning Commission approved a revised preliminary plan (PUD zoning was still in effect) with motion #150204-03 and approved the final development plan for the first phase for a dental office at the northwest corner.

At the **March 23, 2015** meeting the Township Board approved a waiver for sidewalks along 44th St. for the entire PUD.

At the **March 2, 2016** meeting, the Planning Commission discussed an application for the second final development plan for the PUD consisting of a gas station, along with possible bank and retail buildings. The minutes included the Planning Commission's vision for this PUD and for future PUDs. The applicant submitted a letter asking to withdraw the application and the withdrawal was accepted.

At the **August 10, 2016** meeting, the Planning Commission granted revised preliminary plan approval for a PUD (not the PUD rezoning because it is already in place) for a gas station/convenience store, retail/bank building, drive-through restaurant and other drive-through establishments and for three apartment buildings on a parcel of land described as P.P. # 70-14-26-200-077, located at 850 44th St., in a (PUD) Planned Unit Development district, Georgetown Township, Ottawa County, Michigan, with conditions.

SUMMARY-for the final development plan for phase 1

1. Sidewalk. The sidewalk along the northern border was provided as directed by the Planning Commission on August 10, 2016.
2. Lighting. A lighting plan was provided. **The maximum height of 25 feet will be included as a condition of approval.**
3. Utilities. Utilities shall be coordinated with the Ottawa County Water Resources and the DPW Department. **A Storm Water Drain Permit from the Ottawa County Water Resources Commission is required to be submitted prior to the time the first building permit application is submitted to the Township.**
4. PUD Agreement. **The recorded PUD agreement shall be submitted to the Township prior to the time the first building permit application is submitted to the Township.**
5. Garages. **Attached garages with a minimum of 200 square feet shall be provided for each individual dwelling unit.**
6. Architecture. **All future phases shall coordinate with the architectural theme provided for this phase.**
7. Determinations to be made by the Planning Commission:
 - a. Wall signs are proposed to meet ordinance regulations other than deviation of allowing them on all the walls when the ordinance only allows them on the face of the building fronting on the street. This deviation _____ (is or is not) acceptable.
 - b. The freestanding ground-mounted sign at the corner of 44th St. and 8th Ave. is proposed to be a maximum of 7 feet high and Sec. 25.6(B)(2) allows a maximum height of 4 feet. This deviation of three feet _____ (is or is not) acceptable.
 - c. The freestanding ground-mounted sign at the corner of 44th St. and 8th Ave. is proposed to have an area of 68 square feet which exceeds the maximum of 50 square feet per side by 18 square feet required Sec. 25.6(B)(2). This deviation _____ (is or is not) acceptable.
 - d. The ground mounted freestanding sign at the northwest entrance on 44th St.
 - The right-of way is 50 feet from the centerline of 44th St. Therefore, the sign is proposed to be 12 feet from the right-of-way line. Sec. 25.6(B)(2) requires a minimum of 15 feet. The request is for a 3 foot deviation from the ordinance regulations.
 - The sign is proposed to be 5 feet in height. Sec. 25.6(B)(2) requires a maximum height of 4 feet. The request is for a 1 foot deviation from the ordinance regulations.
 - The area of 50 square feet per side meets ordinance regulations.

These deviations _____ (are or are not) acceptable.

e. Southeast entrance on 8th Ave.

- **The setback is to be measured from a point 60 feet from the centerline of 8th Ave. The sign is proposed to be 2 feet from this point and Sec. 25.6(B)(2) requires a minimum of 15 feet. The request is for a 13 foot deviation from the ordinance regulations.**
- **The sign is proposed to be 5 feet in height. Sec. 25.6(B)(2) requires a maximum height of 4 feet. The request is for a 1 foot deviation from the ordinance regulations.**
- **The area of 50 square feet per side meets ordinance regulations.**

These deviations _____ (are or are not) acceptable.

f. Standards of Approval. Does the Planning Commission determine that the following standards in Sec. 22.10 have been met?

- A. The proposed PUD complies with all qualifying conditions of Section 22.2.
- B. The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development.
- C. The proposed uses within the PUD will not possess conditions or effects that would be injurious to the public health, safety, or welfare of the community.
- D. The proposed project is consistent with the spirit and intent of the PUD District, as described in Section 22.1 and represents an opportunity for improved or innovative development for the community that could not be achieved through conventional zoning.
- E. The proposed PUD meets all the site plan requirements of this Chapter, respective of being either a preliminary or final PUD request (Preliminary PUD's must meet Section 22.5, A and Final PUD's must meet Section 22.8, D.)

g. Does the Planning Commission determine that any regulatory modification from traditional district requirements should be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards?

Note: Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of this PUD process or the approved site plans may be appealed to the Zoning Board of Appeals. This provision shall not preclude an individual residential lot owner from seeking a variance following final approval of the PUD, provided such variance does not involve alterations to open space areas as shown on the approved PUD site plan.

OPTION FOR MOTION

If the Planning Commission determines that the standards of the ordinance have been met with the conditions provided, the following motion is offered.

Motion: To adopt the staff report as finding of fact and to approve (PUD1603-01) Final Development Plan for phase 1 for the 44th St./8th Ave. PUD, for a gas station/convenience store, retail/bank building, drive-through restaurant and three apartment buildings on a parcel of land described as P.P. # 70-14-26-200-077, located at 850 44th St., in a (PUD) Planned Unit Development district, Georgetown Township, Ottawa County, Michigan, **as shown on the following:**

- a. Sheet 1 of 3 dated 9/26/16 REVISED,
- b. Sheet 2 of 3 dated 9/26/16 REVISED,
- c. Sheet 3 of 3 dated 9/26/16 REVISED,
- d. The narrative dated 9/19/2016,
- e. The plans for the townhomes and for the convenience store/gas station,
- f. The sign details provided for the two entry signs and one at the corner.

On the basis that the following are met:

- a. **Qualifying conditions in Sec. 22.2.**
- b. **The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development.**
- c. **The proposed uses within the PUD will not possess conditions or effects that would be injurious to the public health, safety, or welfare of the community.**
- d. **The proposed project is consistent with the spirit and intent of the PUD District, as described in Section 22.1 and represents an opportunity for improved or innovative development for the community that could not be achieved through conventional zoning.**
- e. **The proposed PUD meets all the site plan requirements of Chapter 22 including Sec. 22.8, D.**

Based on the Planning Commission determination that any regulatory modification from traditional district requirements are approved through a finding that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards, as shown on the plans and including the following:

- a. **Wall signs are allowed all the walls of the buildings.**
- b. **The freestanding ground-mounted sign at the corner of 44th St. and 8th Ave. is allowed to be a maximum of 7 feet high a deviation of three feet, and is allowed to have an area of 68 square feet which exceeds the maximum of 50 square feet per side by 18 square feet required Sec. 25.6(B)(2).**
- c. **The ground mounted freestanding sign at the northwest entrance on 44th St. is allowed to be 12 feet from the right-of-way line, a deviation of 3 feet from Sec. 25.6(B)(2) which requires a minimum of 15 feet. The sign is proposed to be 5 feet in height, a deviation from Sec. 25.6(B)(2) which requires a maximum height of 4 feet.**
- d. **For the ground mounted freestanding sign at the southeast entrance on 8th Ave., the setback is to be measured from a point 60 feet from the centerline of 8th Ave. The sign is proposed to be 2 feet from this point and Sec. 25.6(B)(2) requires a minimum of 15 feet. The 13 foot deviation from the ordinance regulations is allowed. The sign is proposed to be 7 feet in height to be similar to architect of the building. Sec. 25.6(B)(2) requires a maximum height of 4 feet. The request is for a 1 foot deviation from the ordinance regulations is allowed.**

And with the following conditions:

- a. **A recorded PUD agreement (according to Sec. 22.11) is submitted prior to the submission of a building permit application for this phase.**
- b. **Approval from the Ottawa County Water Resources Commission is required.**
- c. **As per Sec. 22.2(B), the site must be serviced by public water and sanitary sewer, which is to be coordinated with the Department of Public Works.**
- d. **All outstanding fees are paid prior to any building permits being issued.**
- e. **Sign permits are required for all sign installation.**
- f. **Each individual unit of a two-or multiple family dwelling unit shall be provided with an attached enclosed garage with a minimum of 200 square feet.**
- g. **The architectural design and all structures and elements of future phases shall coordinate with the elevations provided and approved.**
- h. **The light poles shall have a maximum height of 25.**
- i. **The following must be submitted to the Township prior to the time a building permit application is submitted to the Township.**
 1. **Proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD.**
 2. **A Storm Water Drain Permit from the Water Resources Commission's Office.**
 3. **PUD agreement as per Sec. 22.11.**
 4. **Either the deed restrictions or the PUD agreement shall contain language related to the maintenance of the open space and the landscaping.**

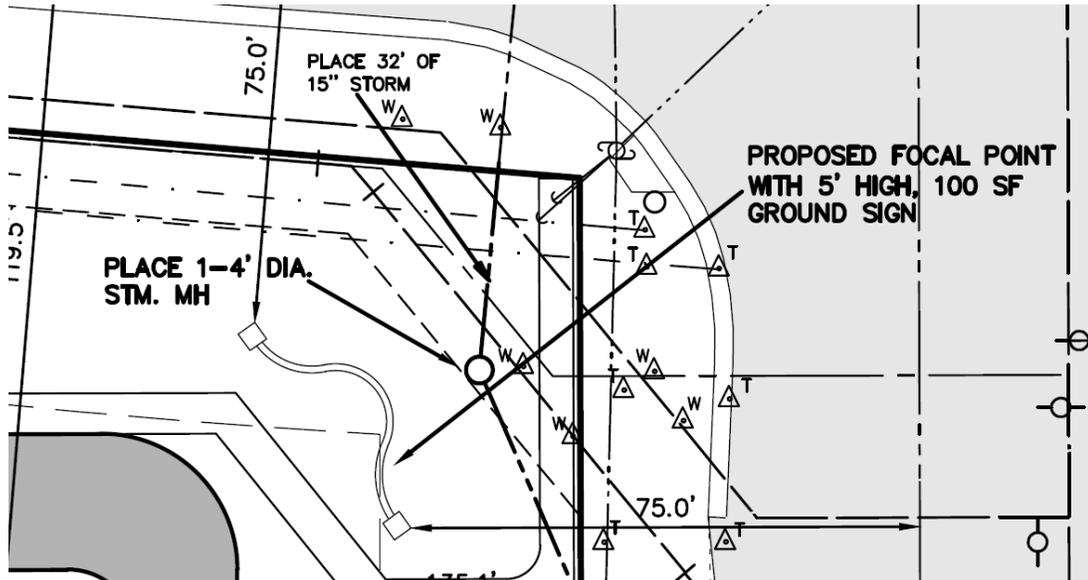
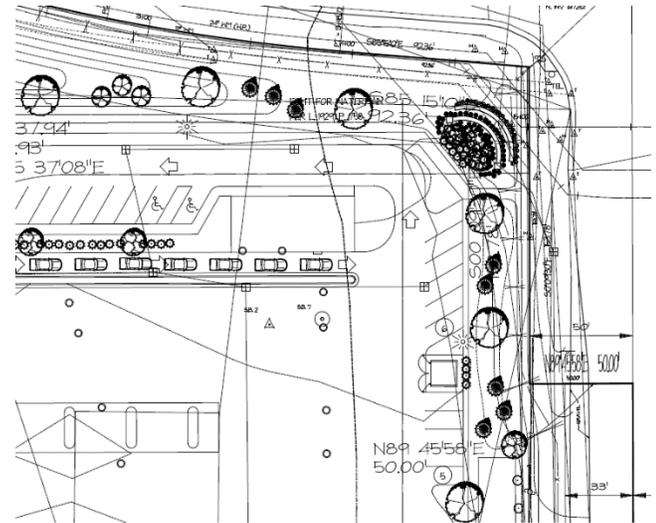
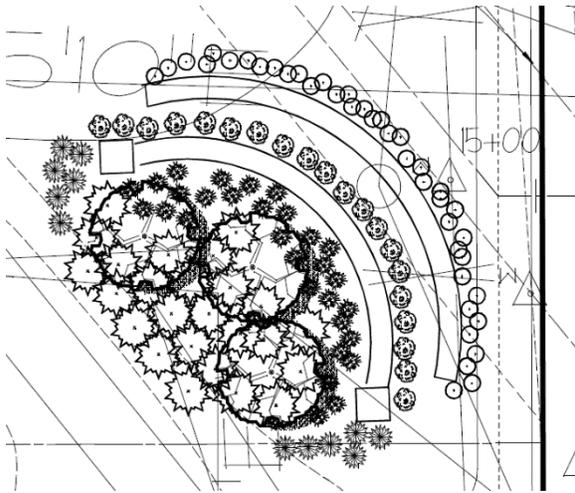
REVIEW FOR FINAL DEVELOPMENT PLAN

Sec. 22.8 FINAL DEVELOPMENT PLAN APPLICATION.

- B. **Final Development Plan Approval Time Period – Dual or Multi Phased:** If the project includes phases, then the applicant must submit a request within twelve (12) months of the Township Board's approval of the preliminary plan and PUD rezoning for final development plan approval of a phase. Following the final approval of the first PUD phase, the applicant must submit each subsequent phase within twenty-four (24) months of the approval date for the previous phase. If the applicant fails to submit the first phase within twelve (12) months or each subsequent phase within the twenty-four (24) month time period then the preliminary site plan incorporating all phases not already approved for final site plan shall be determined to be invalid.

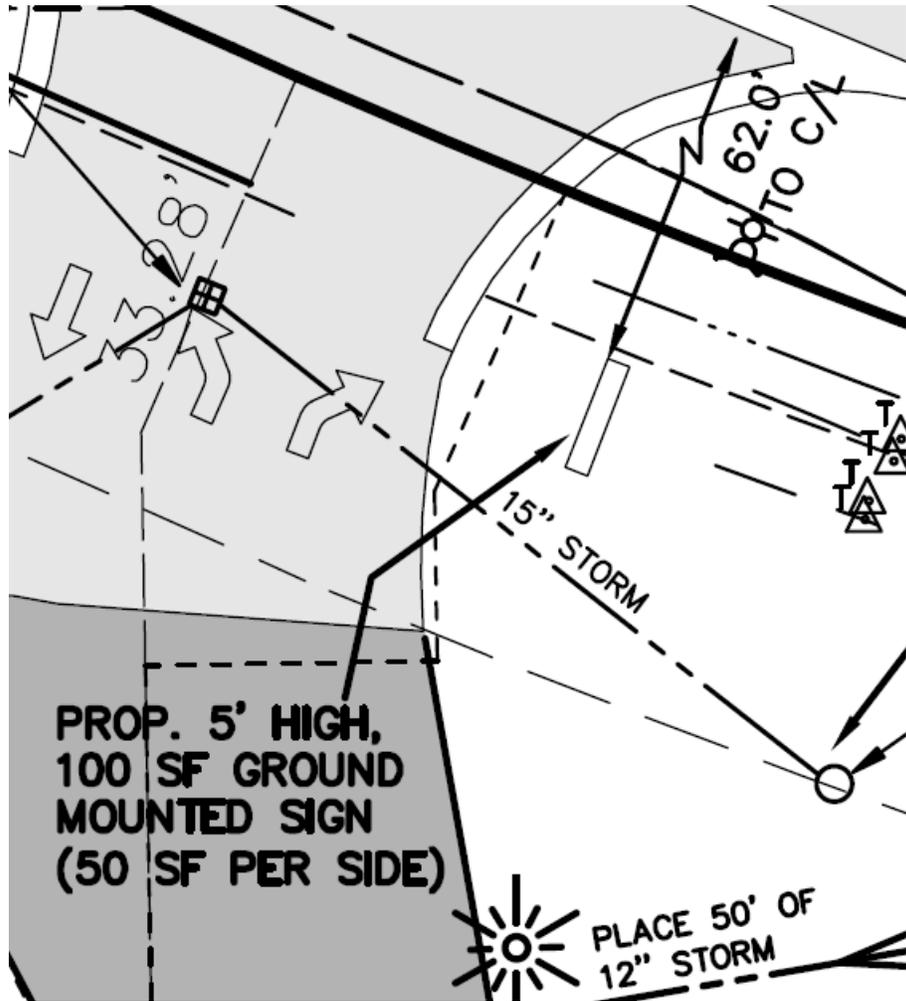
Met. Preliminary development plan approval was granted on August 10, 2016.

- C. **Final Development Plan Application Requirements:** A final development plan application shall consist of the following (unless determined by the Zoning Administrator or Planning Commission to be unnecessary):
1. A completed application form, supplied by the Zoning Administrator. **Provided.**
 2. Payment of a fee, as established by the Township Board. **Paid with preliminary plan.**
 3. A written response to the findings, review comments, and conditions, if any, from the Township Board's review and approval of the preliminary development plan and a narrative explanation of the changes made to the plan in response to those items. **Provided with the narrative and changes noted on the plan.**
 4. A site plan containing all of the information required in this PUD Chapter and the following information shown below: (If the plan consists of phases, then the above-mentioned information is only required for the specific phase(s) being presented for final approval. Each subsequent phase shall be reviewed in the same manner).
 - a. The location and dimensions of all proposed structures and buildings on the PUD site.
PROVIDED.
 - b. The location of all proposed drives (including dimensions and radii), acceleration/deceleration lanes, sidewalks / pathways / bikepaths, curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), and unloading areas. Street names must also be included.
PROVIDED. The sidewalk along the northern border was extended along the northern boundary as directed by the Planning Commission on August 10, 2016.
 - c. The location of all proposed signs and lighting, including the sizes and types.
PROVIDED.
A lighting plan was provided. **The maximum height of 25 feet could be included as a condition of approval.**



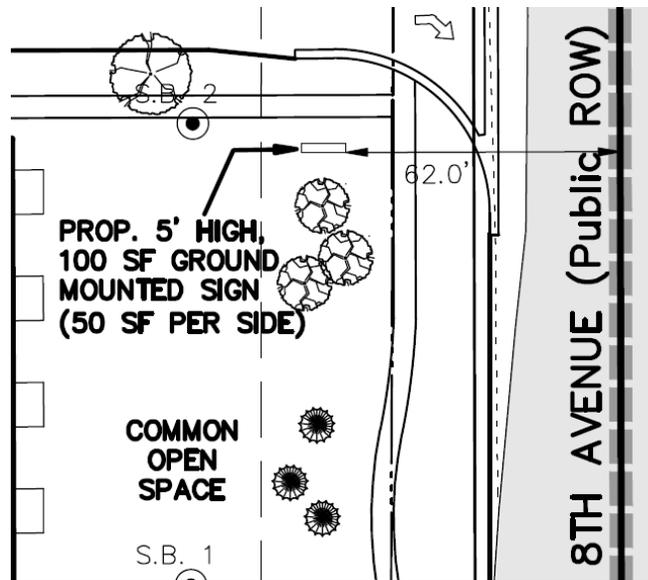
2. Northwest entrance on 44th St.

- The right-of way is 50 feet from the centerline of 44th St. Therefore, the sign is proposed to be 12 feet from the right-of-way line. Sec. 25.6(B)(2) requires a minimum of 15 feet to the right-of-way. **The request is for a 3 foot deviation from the ordinance regulations.**
- The sign is proposed to be 5 feet in height. Sec. 25.6(B)(2) requires a maximum height of 4 feet. **The request is for a 1 foot deviation from the ordinance regulations.**
- The area of 50 square feet per side meets ordinance regulations.



3. Southeast entrance on 8th Ave.





- The setback is to be measured from a point 60 feet from the centerline of 8th Ave. The sign is proposed to be 2 feet from this point and Sec. 25.6(B)(2) requires a minimum of 15 feet. **The request is for a 13 foot deviation from the ordinance regulations.**
- The sign is proposed to be 5 feet in height. Sec. 25.6(B)(2) requires a maximum height of 4 feet. **The request is for a 1 foot deviation from the ordinance regulations.**
- The area of 50 square feet per side meets ordinance regulations.

d. The location, type and size of all proposed landscaping and site amenities (art work, fences, gateway features, etc.).

PROVIDED. The landscaping note was corrected to state that the dimension on Zone 1 on 8th Ave. is $540 \text{ feet} / 25 = 22$ trees required and provided.

e. The location, type and size of all utilities and storm water drainage facilities, including fire protection, sanitary sewers, water services, etc.

To be coordinated with the Township DPW Department and Ottawa County Resources Commission Department.

f. Existing and proposed topographic contours at a maximum of three (3) foot intervals.

PROVIDED.

g. Elevation views of all proposed structures and floor plans for all multi-family residential dwelling units.

PROVIDED. Elevations and floor plans were provided.

- h. Proposed open space areas, including recreational amenities (playgrounds, etc.).

PROVIDED. Two pedestrian plazas with benches are proposed.

- i. Floodplain areas.

PROVIDED. A note on the plan indicates that this phase is not affected by a floodplain.

- B. The Planning Commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs; traffic impacts; impact on significant natural features and drainage; soil tests; and other pertinent information.

Sec. 22.9 PLANNING COMMISSION REVIEW OF FINAL DEVELOPMENT PLAN.

- A. The Planning Commission shall review the final development plan in relation to its conformance with the preliminary development plan and any conditions of the PUD rezoning. If it is determined that the final plan is not in substantial conformance with the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with the procedures of Sections 22.5 - 22.7 of this Ordinance.

This phase appears to be consistent with the previously overall preliminary PUD plan.

- B. Planned Unit Developments, whether established as a single or multiphase development, shall reasonably accommodate for the intent of the PUD in each phase. If the proposed PUD appears to provide for phases that do not incorporate the intent of the proposed PUD, the Planning Commission may require bonding or other similar financial obligation, which shall be established in the PUD agreement. If a portion of the PUD intent it to provide for a variety of uses (i.e. - apartments and single family homes), then the proposed phasing schedule shall show how the development of these uses will be balanced in the phased development schedule.

The final development plan appears to accommodate the intention of the PUD.

- C. If the final development plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final plan in accordance with the standards for approval in Section 22.10.

See the review under Sec. 22.10.

- D. The Planning Commission shall prepare a record of its findings and shall approve, approve with conditions, or deny the final development plan.

Minutes will be prepared.

- E. Any regulatory modification from traditional district requirements shall be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be

possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of this PUD process of the approved site plans may be appealed to the Zoning Board of Appeals. This provision shall not preclude an individual residential lot owner from seeking a variance following final approval of the PUD, provided such variance does not involve alterations to open space areas as shown on the approved PUD site plan.

To be determined by the Planning Commission.

- F. A table shall be provided on the final site plan which specifically details all deviations from the established zoning area, height and setback regulations, off-street parking regulations, general provisions, or Township subdivision regulations which would otherwise be applicable to the uses and developments proposed in the absence of this PUD article and rezoning.

Provided on the plan and in the narrative.

Sec. 22.2 QUALIFYING CONDITIONS.

Any development that fails to meet the following qualifying conditions, at a minimum, shall not be considered for the PUD District:

- A. **Acreage Requirement:** The PUD site shall be not less than ten (10) acres of fully contiguous property not separated by a public road, railroad, or other such associated feature or barrier. If the PUD is to contain a mixture of residential and non-residential uses, the minimum required area shall be twenty (20) acres. The Planning Commission and Township Board may consider a PUD on lesser acreage if it is clear that the proposed PUD substantially provides for the intent of a PUD as stated in this Chapter. In addition, the Planning Commission and Township Board may use the same intent section of the Zoning Ordinance when considering a PUD with property that may be separated by a public road, railroad, or other such associated feature or barrier. It would be up to the applicant to prove why, for example, a physical barrier (road or railroad) separating the acreage would not restrict the applicant's ability to develop a cohesive PUD.

Previously determined to be met. With motion #150204-03, the Planning Commission approved the overall PUD and approved the waiver for 9.64 acres for a mixed use PUD when Sec. 22.2(A) requires 20 acres for a mixed use PUD. The finding was that the PUD with less acreage provides for the intent of a PUD as listed in the PUD Chapter. Further, the Planning Commission determined this standard was met at the August 10, 2016 meeting.

- B. **Utilities:** All PUD's shall be served by public water and sanitary sewer facilities. Stormwater must be coordinated with the county drain commission.

This is required to be met and is to be coordinated with the DPW Department and Ottawa County Water Resources Commission.

- C. **Land Ownership:** The PUD application must be filed by the landowner, jointly by the landowners, or by an agent. If the application is filed by an agent(s) or other interested party, written approval from the landowner(s) must also be filed.

Met. A letter was provided.

D. **Master Plan:** The proposed uses of the PUD must be substantially consistent with Georgetown Township's Master Plan for the subject property.

Met as previously determined by the Planning Commission at the August 10, 2016 meeting.

E. **Pedestrian:** The PUD must provide for integrated, safe and abundant pedestrian access and movement within the PUD and to adjacent properties. (In addition, the township has a standalone ordinance covering certain sidewalk requirements)

Met as previously directed by the Planning Commission at the August 10, 2016 meeting.

E. **Architecture:** The PUD should provide for coordinated and innovative visually appealing architectural styles, building forms and building relationships.

Met as previously determined by the Planning Commission at the August 10, 2016 meeting.

G. **Traffic:** The PUD must provide for safe and efficient vehicular movements within, into and off of the PUD site. In addition, the PUD should integrate traffic calming techniques, along with suitable parking lot landscape islands and other similar techniques to improve parking lot aesthetics, storm water management, traffic flow and vehicular/pedestrian safety.

Met as previously determined by the Planning Commission at the August 10, 2016 meeting.

H. **Open Space Requirements:**

1. The PUD development shall contain usable open space in an amount equal to at least twenty (20) percent of the total PUD site. The Planning Commission may consider a PUD with a lesser amount of open space if it is clear that the proposed PUD substantially provides for the intent of a PUD as stated in this Chapter. It is noted that open space is a very important element of a PUD and reductions to the open space provision should be granted only as a result of specific, clearly documented reasons (i.e. the PUD may be located on a relatively small site in an area where a 20% open space provision would detract from building continuity, historic preservation efforts, etc.)
2. Such open space to be considered usable shall **not include required yards** (required yards need to be individually determined for each PUD project) or buffers, parking areas, drives, rights-of-way, utility or road easements, storm water detention ponds, wetlands (unless determined to be useable by the Planning Commission due to the addition of interpretive boardwalks/walkways, etc. provided in and through the wetland) and structures (Unless the structures are part of the open space i.e. gazebos, etc.).
3. **Such open space shall be permanently set aside for the sole benefit, use, and enjoyment of present and future occupants of the PUD through covenant, deed restriction, open space easement, or similar legal instrument acceptable to the Township;** or, if agreed to by governmental agency, the open space may be conveyed to a governmental agency for the use of the general public.

Met as previously determined by the Planning Commission at the August 10, 2016 meeting.

Sec. 22.3 *PERMITTED USES.*

Any use permitted by right or special land use in any District may be approved within a PUD.

Sec. 22.10 *STANDARDS FOR APPROVAL (both preliminary and final).*

A PUD shall be approved only if it complies with each of the following standards:

- A. The proposed PUD complies with all qualifying conditions of Section 22.2. **TBD.**
- B. The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development. **Met.**
- C. The proposed uses within the PUD will not possess conditions or effects that would be injurious to the public health, safety, or welfare of the community. **Met.**
- D. The proposed project is consistent with the spirit and intent of the PUD District, as described in Section 22.1 and represents an opportunity for improved or innovative development for the community that could not be achieved through conventional zoning. **Met.**
- E. The proposed PUD meets all the site plan requirements of this Chapter, respective of being either a preliminary or final PUD request (Preliminary PUD's must meet Section 22.5, A and Final PUD's must meet Section 22.8, D.) **Met.**

Sec. 22.11 *PUD AGREEMENT..*

- A. Prior to the issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the Township in recordable form, setting forth the applicant's obligations with respect to the PUD.
- B. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval by the Township Board.
- C. A phasing plan shall also be submitted describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.
- D. The agreement shall also establish the remedies of the Township in the event of default by the applicant in carrying out the PUD, and shall be binding on all successors in interest to the applicant.
- E. All documents shall be executed and recorded in the office of the Ottawa County Register of Deeds.

A condition of approval: the recorded PUD agreement shall be submitted prior to the time the first building permit application is submitted to the Township.