

BOARD OF TRUSTEES

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Pierce Township Board of Trustees Meeting & Public Hearing
950 Locust Corner Road
Thursday, December 8, 2022
6:00pm

PUBLIC HEARING AGENDA

I. Call to Order

II. Pledge of Allegiance

III. Instructions from the Chair:

- Anyone who wishes to speak during this Public Hearing (applicant, staff, and the public) must be sworn in. We will allow the public to speak at the appropriate time during this hearing following receipt of the staff report, presentation and questions from the Trustees.
- Oath is to be taken by all attendees and staff wishing to speak during this hearing.

Anyone wishing to speak during this public hearing, please raise your right hand:

"Do you solemnly swear or affirm under penalty of perjury that you will tell the truth in these proceedings?"

IV. Open Public Hearing

1. ZC2022-004 (Davis/Ninemile): Request for a Zone Map Amendment to rezone the property located at 3805 Ninemile-Tobasco Road, to rezone the parcel from Planned Unit Development (PUD) to Planned Unit Development Residential (PUD-R). The applicant, Joe Huesman (on behalf of owner Elizabeth Huesman) is proposing one (1) single family subdivision development, to construct 39 single family dwelling units.
 - a. Staff Presentation
 - b. Applicant Presentation
 - c. Discussion by the Trustees
 - d. Open Public Comment – speakers in favor or opposed to zone change
 - e. Motion to Close (or Continue) Public Hearing

- f. Chair shall read the recommendations of the Planning Commission and Zoning Commission
- g. Deliberation by the Trustees
- h. Motion(s) for consideration to direct staff to draft a resolution for the December 14th Board of Trustees meeting to:
 - Recommend approval
 - Recommend approval with modifications
 - Recommend Denial

V. Other Business

VI. Public comment/Open Floor Discussion

VII. Adjournment

Next regular meeting date: December 14, 2022

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Board of Trustees
December 8, 2022
Case Number: ZC2022-004**

Ninemile-Davis Road PUD

Summary: A Zone Map Amendment request for property located at 3805 Ninemile-Tobasco Road, to rezone the parcel from Planned Unit Development (PUD) to Planned Unit Development Residential (PUD-R). The applicant is proposing one (1) single family subdivision development, to construct 39 single family dwelling units.

Applicant: Joe Huesman

Owner: Elizabeth Huesman

Property Location(s): See attached map

Lot Area: 30.12 Acres

Existing Zoning: Planned Unit Development (PUD)

Proposed Zoning: Planned Unit Development Residential (PUD-R)

Current Use: Vacant

Future Land Use: Conventional Residential w/Mixed Use Option

Action(s) Required:

- A. The Board of Trustees shall read both the recommendation from the Clermont County Planning Commission and the Zoning Commission into the record and recommend approval/denial/approval with modification(s), as it pertains to the foregoing proposal submitted by Joe Huesman.
- B. The Board of Trustees shall utilize the PUD review standards found in Section 7.03 (C)(1)(e)(ii) along with other relevant information in considering the appropriateness of the proposed PUD plan.
- C. Approval of the Stage II Preliminary Development Plan shall, at a minimum, include density, intensities, land uses and their inter-relationship.
- D. The Board of Trustees shall also consider the draft PUD Development Agreement submitted by Township staff as a part of this Stage II Preliminary Development Plan review

Prepared By: Eddie F. McCarthy, Planning and Zoning Administrator

Proposal (Attached):

Dwelling Type(s): Construct 39 Single Family Detached Homes

- Density (Gross): 1.29 units/acre
- Density: 3.65 Units/Acre (net)*
- Dwelling Square Footage Range: 1,296 sq.ft - 2,550 sq. ft
- Bedroom(s): 2-4

Setbacks:

- Front: 25'
- Side: 8'
- Rear: 30'

Lot Size Range(s): 10,500 sq.ft – 35,544 sq. ft

Impervious Surface proposed: 3.71 Ac. (161,690 sq. ft) incl. rooftops. (12% +/-)

Roadways: Construct 1,600 LF feet of 28' wide roadways to be dedicated public

Open Space: 12.04 acres (40%)

Active Open Space: Trail system

Utilities:

Stormwater: One on-site stormwater detention facilities proposed

Wastewater/Potable Water: Clermont County Sewer and Water proposed

Maintenance: Homeowners Association (HOA) is proposed to maintain the open space, sidewalks, trails, landscaping and storm facility

Phasing: 1 phase proposed (Initial infrastructure to be installed within 18 months)

**For reference, the Single Family Residential District (SFR) permits 2 units/acre with 20,000 sq. ft lots.*

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General Vicinity:



History:

- 1) **PUD-R 2007 Rezone:** The site was rezoned to PUD-R in conjunction with 52 condominium units.

Final Development Plan never approved

- 2) **PUD-R 2018 Rezone:** The site was proposed for a new development plan and rezone at this time. The proposal consisted of 216 Multi-Family units (7.1 units/acre density).

The Board of Trustees voted to deny the proposal at their July 18, 2018 Public Hearing. The Board adopted the Zoning Commission's recommendation to deny including Density, number of units, traffic, safety. Other items discussed included flooding/stormwater and road issues.

- 3) **Concept Review Meeting:** ZC2022-002 was reviewed by the Zoning Commission at their March 1, 2022 meeting. The proposal included the development of 42 single family residential lots/dwelling units.

- 4) **Planning Commission Meeting:** ZC2022-004 was recommended for approval by the Planning Commission with the following conditions:

1. Conform to all Article 7: 7.04: PUD Development Standards.
2. Add a detailed cross-section with the product type listed for the proposed hiking trail. All portions of the hiking trail are to be located within open space.
3. All dedicated open space shall total at least 35% of the proposed site and be designed to accommodate at least 5% of active open space; add detail for proposed active amenities.
4. All easements will be required to be depicted on the record plat and shall state any conditions and restrictions of said easements. i.e., OHE
5. A Wetland Assessment and determination must be completed for the subject property due to the presence of hydric soil types.
6. A 401/404 EPA permit will need to be obtained due to the wetland area on site.

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7. Stormwater Basins are required to be located within open space lots, not overlapping building lots.

8. Remove all existing structures on the site before development.

5) Pierce Township Zoning Commission Public Hearing (September 6, 2022): Tabled in order to address concerns in the staff report and address other comments.

6) Pierce Township Zoning Commission Continued Public Hearing (October 19, 2022): ZC2022-004 was recommended for approval by the Zoning Commission with the following conditions:

1) The applicant removes lots 29, 24

2) The applicant will work with the Fire Department replace Lot 39 with a secondary access, resulting in the removal of the stub roadway.

3) Consolidation of the trail network south of lots 23 and 25 connect through future Lots 28 and 27.

Land Use Plan:

The underlying Future Land Use designates the subject property as Conventional Residential with a Mixed Use Option. This indicates that some commercial and residential mix that serves the general vicinity was envisioned in the 2013 Land Use Plan.

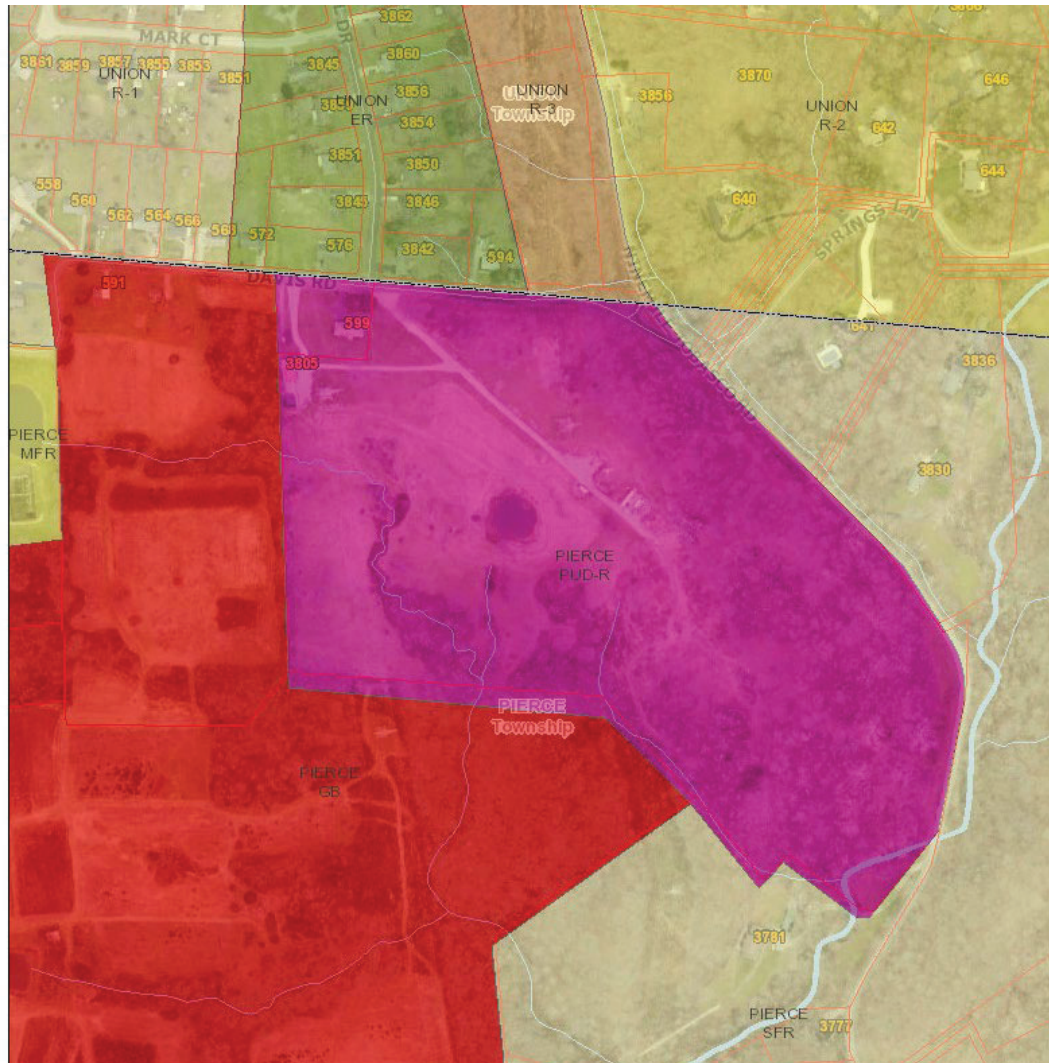
Conventional Residential

The areas designated as conventional residential are those areas with minimal slope constraints, accessible to centralized sewer, are serviced by roadways with available capacity, and where a number of existing large-scale developments already exist in the Township. These areas may continue to develop at a density of one half acre per dwelling unit. However, the density may be increased under a Planned Development (PD) or conservation design procedure if an applicant provides open space and/or active recreational areas and parks. The maximum density should be four units per acre based on a sliding scale.

Adjacent Use(s) and Zoning:

The property is vacant and zoned PUD. The site is surrounded by low density single family residential and agricultural property.

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Planned Unit Development (PUD) Plan 7.02 A) Overall Purpose Land Use Objectives Compliance/Conflicts:

- 1) **The site fails to comply with:**
PUD Objectives
 1) Provide a variety of housing and lot sizes to promote the planning of a development that is more sensitive to the protection of natural resources on

sites by clustering the housing in areas physically suited to accommodating development and preserving the resources in open space.

10) Respect the balance between building mass or volume and vegetation mass or volume by considering scale relationships between the new development and existing buildings and the landscape.

- The lot sizes and open space are not varied nor designed in an effort to accommodate resource protection and avoidance of hillsides. Significant grading is shown in the hillsides. The design is conventional and fails to cluster lots, resulting in grading and incursions into the trees and hillsides, as well as the elimination of the pond in the center of the site. At least 9 lots encroach on the tree line and hillside.
- Land disturbance must be minimized (and should be delineated) for a site with a profile of steep hillsides. It is advisable to limit the land disturbance to the contours of the plateau (avoiding the steep declines – follow the tree line and remain on the open plain). (Steep slopes 20-30%+ are typical and can be seen densely contoured in red, per the aerial, below). Cluster development is an alternative option to the PUD or other conventional approaches.
- The architecture lacks substantive variety in massing, design and character. Designs lack any particular character or theme.
- The amenities are lacking and are a de facto replacement of the sidewalk requirements

2)The site fails to comply with:

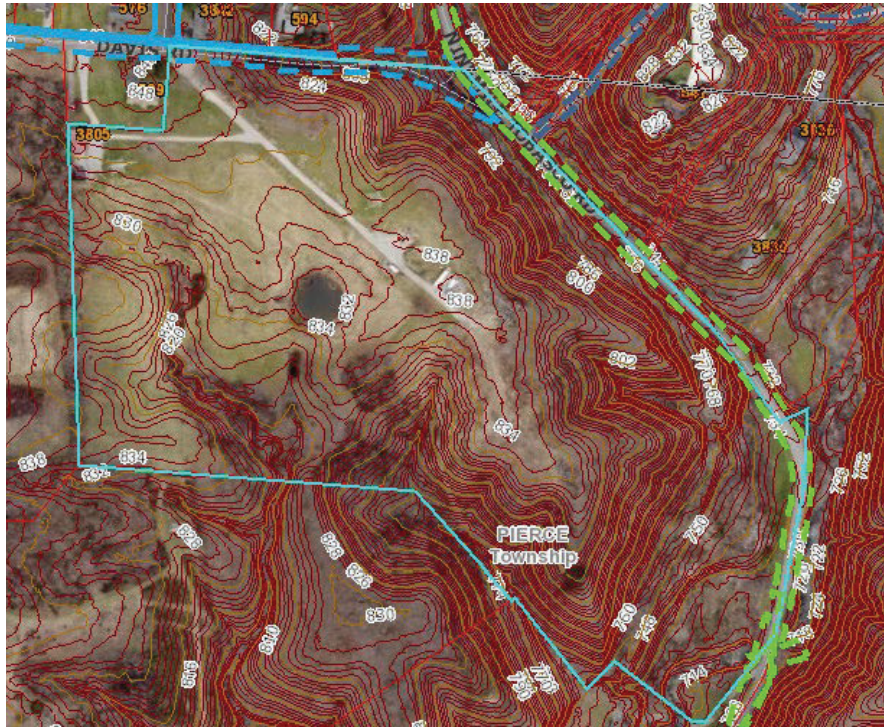
PUD Objectives

4) Preserve open spaces to reduce erosion, improve water quality, provide wildlife habitats, retain scenic views, and reduce storm water runoff

5) Preserve areas with steep terrain by respecting topography and other natural features in the development plan and maintaining significant percentages of land in open space in wooded and sloped areas.

- There is a 0.18 acre Freshwater Pond habitat on site classified as a PUBGh proposed to be entirely disturbed and removed. This similarly conflict with Objective 10 as well.
- At least 9 lots encroach on the tree line and hillside.
- Based on downstream impacts, both impervious surface should be limited and on site collection capacity should be above the minimum standard, unless increased conservation steps are taken. The site sits on a plateau and has proposed conventional stormwater techniques, with no regard for creative approaches.

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Resource Protection Requirements:

TABLE 7.04-3: RESOURCE PROTECTION STANDARDS	
Natural Resource	Percentage to be Preserved
Floodplains as defined by FEMA	100%
Wetlands	Subject to U.S. Army Corps of Engineers and Ohio EPA requirements
Unstable slopes (Eden and Fairmount soils with 25 – 50% slopes)	90%
Steep slopes 30% or steeper	85%
Steep slopes 20 – 30%	70%
Young Woodland	25%
Mid-growth Woodland	40%
Mature Woodland	50%

3) The site fails to comply with:

Objective

- 9) Provide a higher level of design review to ensure attractive, well-planned communities and eliminate the barriers to creative and sensitive design that may exist when attempting to comply with conventional district standards and subdivision rules.
- High tension lines (2 installations) easements and structures on site appear to impact numerous home lots on site.
 - Accessory structures have multiple potential obstruction areas due to the power line easements which wholly prevent or severely constrain the potential to build said accessory structures. Cluster design can remedy this issue in many circumstances. The applicant stated in the October 2022 Public Hearing that they would research the “Duke setbacks”, indicating that to this point, they remain *unsure as to whether setbacks are required, or structures are permitted etc in the vicinity. Further illustrated by a tower located on Lot 32 and Lot 1.*
- Some lots are excessively short and panhandles should be avoided and lots 35 and 34 fail to meet the lot width minimum. No waiver has been requested.

4) The site fails to comply with the PUD District Purpose Statement for Residential Uses: For residential uses within a PUD, the objective is to encourage the creation of neighborhoods with a variety of housing types that retain natural resources, provide adequate landscaping and open space areas, and are compatible with the character of adjoining land uses. PUD waivers granting reduced residential lot area or dwelling square footage minimums should be applied only when the applicant can demonstrate that the overall development is of a higher quality beyond what is required in a non-PUD zoned development.

- Landscape plans (Outdated) and not updated after alterations made subsequent to the Zoning Commission Public Hearing, illustrate tree cover areas in private yards that have no protections and are subject to clearance. This can have profound impacts on stormwater and aesthetics at a minimum.
- 5) The site fails to:** Comply with the underlying proposed future land use. Significant topographic issues are present and the applicant’s design directly impacts the tree line and steep hillsides, as well as pond.

Conventional Residential

The areas designated as conventional residential are those areas with minimal slope constraints, accessible to centralized sewer, are serviced by roadways with available capacity, and where a number of existing large-scale developments already exist in the Township. These areas may continue to develop at a density of one half acre per dwelling unit.

- 7) The Plan is inconsistent with the Land Use Plan;**

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(aa) The Preliminary Development Plan is **not** consistent with the intent and purpose of this zoning resolution and, in particular, the furtherance of the purpose of the PUD as set forth in Section 7.02 (Purpose Statements).

(bb) conventional residential recommends a density of 2 units /acre in areas where steep slopes are not an issue. In cases where steep slopes are a concern, the steep slopes must be preserved/protected.

- Steep slopes however, are an issue on this site in addition to various other constraints.
- Adjoining lots in adjacent neighborhoods tend to be at least 20,900 sq. ft in area than numerous proposed lots on site.
- The site fails to substantively attempt to achieve the spirit and intent of the PUD/Land Use Plan in attempting a higher quality development.
- Numerous impediments are not only incorporated (Power Line easements, towers, removal of pond) but it appears little to no effort has been made to avoid these impediments.

- 8)** The site is proposed along an intersection/roadway with poor configuration/geometry and inadequate safety profile. The site is misaligned with Michael Drive and Staff remains concerned with the sufficiency of Ninemile Road, particularly at the intersection with Davis. Per OKI, Ninemile Road has approximately 469.82 Crashes/ 100 Million Vehicle Miles Traveled, which placed this road in the top end of Tier 3 merging to Tier 4 starting at 500 (6 Tiers with 6 being the worst).

Based on our general discussions (Amanda Beiting, PE - Phone and 3/30 email) regarding the Davis Ninemile intersection, my understanding is as follows:

- There are geometric issues with this intersection and adjacent areas; this intersection does not comply with the Clermont County roadway standard(s).
- There are no present plans to improve this intersection.

(dd) The proposed infrastructure, utilities and all other proposed facilities are **not** adequate to serve the planned development and properly interconnect with existing public facilities.

- 9)** The site fails to connect with adjoining sites or provide interconnectivity, nor fully comply with D107 of the Fire Code.

Fire Department has concerns with the sight lines at intersections (in the vicinity) and Davis Road traffic.

The entrance fails to align with Michael Drive.

Duke Energy Power Easements appear to limit the usable spaces on numerous lots on site, without proper applicant due diligence performed.

(ee) The proposed uses, location and arrangement of structures, lots, parking areas, walks, open spaces, landscaping, lighting and appurtenant facilities are **not** compatible with the surrounding land uses.

- 10) It appears that various natural resources, including trees, the pond, steep slopes and hillsides are impacted. At least 9 lots direct impact the tree line and steep hillsides via grading and construction. The freshwater pond is also proposed to be removed.

Due to downstream stormwater concerns (flooding, erosion etc), staff recommends a raingarden, above and beyond the proposed storm system be installed. Demonstration rain gardens can be considered as a component of the Active Open Space.

(ff) Required resource protection land and open space areas are identified and provisions have **not** been made for the care and maintenance of such areas.

(gg) The PUD is **not** designed to minimize the impact on the natural environment

Staff Recommendation:

Based upon the Township Land Use Documents and Zoning Resolution, including 7.03 (C)(1)(e) (ii), the proposal is not compliant. Therefore, staff recommends denial.

The site has numerous constraints (and assets) both natural (steep areas, freshwater pond, tree cover) and other constraints such as high tension power line easements/structures and poor roadway configurations and geometry and limited/poorly aligned and configured access. A lower density proposal that creatively utilizes the buildable area(s) on site while leveraging the natural space(s) on site to provide further amenity and less stress on roadways and public service(s) is possible and would appear achievable utilizing more creative technique(s) including but not limited to cluster style development. The cluster concept was further delineated in staff's email to the applicant (Joe Huesman) in August of 2022, which did not elicit an attempted cluster design.

Deficiencies:

- *Failure to resubmit relevant documents in accordance with Article 7 PUD for review including but not limited to (Emails November 22, 2022 and December 2, 2022):*

Updated Landscape Plans illustrating revised lots, trail system et.al

Updated plans illustrating compliance with D107 of the Fire Code

Drainage calculations justifying statements made regarding “over detainment of stormwater”

Updated plans illustrating compliance with Planning Commission recommendations incl. a cross section detail of the hiking trail and/or the removal of all existing structures on site (barn etc.)

Deficient panhandle lots not meeting the minimum lot widths remain despite repeated commentary on panhandle lots

Despite deviations, no waivers requested for panhandle lots

- *Failure to meet the spirit and intent of the Land Use Plan – Compliance conflict (bb)*
- *Failure to meet the spirit and intent of the Planned Unit Development (PUD) – Compliance conflict (aa)*

Deployment of conventional design on a site with unconventional issue(s)

- *High Tension Power lines reduce buildable/usable area, potentially inhibit numerous lots to construct accessory structures and maintain a Tower on Lot 32 and Lot 1. The design allows significant adverse impact on residential lots; Duke Energy not contacted by the applicant despite stated concerns. Compliance conflicts (aa), (ee), (hh)*
- *Removal of freshwater pond on site without any effort to retain this asset. PUD exists to promote preservation of these asset types. - Compliance conflicts (aa), (gg)*

Significant encroachment on hillsides and tree lines (at least 9 lots. Landscape plans (Outdated) and not updated after alterations made subsequent to the Zoning Commission Public Hearing and after staff requested updated documents (Emails 11/2 and 12/2) illustrate tree cover areas in private yards that have no protections and are subject to clearance. This can have profound impacts on stormwater and aesthetics at a minimum. - Compliance conflicts (aa), (gg)

- *Complete misalignment of entrance with Michael Drive. Compliance conflicts (cc)*

- *Conventional stormwater design, rather than deployment of rainbarrels, additional swales etc as supplements. Failure to understand that both proper preservation and further Best Management Practices (BMPs) should be deployed to meet the spirit and intent of the PUD and Land Use plan be deployed on a plateau above residential valleys and waterways with erosion issue(s). Compliance conflicts (aa), (gg)*
- *Failure to comply with D107 of the Fire Code, in providing a proper access arrangement for Emergency Services - Compliance conflicts (cc), (dd)*
- *Davis/Ninemile intersection and Ninemile Road have geometric deficiencies and stress on these facilities should be limited - Compliance conflicts (aa), (bb)*
The Davis/Ninemile intersection configuration can also present complications and delays for deployment of Fire Department apparatus equipment and response vehicles.
- *The proposed lot sizes are smaller than surrounding lots which tend to be around 20,900 sq. ft in area. - Compliance conflicts (aa), (bb)*
- *The active amenity is a quasi replacement of the sidewalk system, with no further enhancement. Numerous PUDs exist in the Township showing the standard to which an active amenity has been achieved in past iterations and approaches. (Golf Courses, Driving Ranges, Pools, Clubhouses etc)- Compliance conflict (aa), (bb)*
The trail system materials are not delineated in accordance with the Planning Commission condition(s) 2. Add a detailed cross-section with the product type listed for the proposed hiking trail. All portions of the hiking trail are to be located within open space. - Compliance conflicts Planning Commission Approval

The Planned Unit Development (PUD) is not appropriate in all areas and when deployed, should result in higher quality developments not demonstrating the aforementioned deficiencies, which are avoidable and intended to be avoided through the PUD process.

**Article 3: Development Review Procedures
3.06: Zoning Text and Map Amendments**

A) Amendment Initiation

- 1) Amendments or supplements to the zoning resolution may be initiated by:
 - (a) Motion of the Zoning Commission;
 - (b) Passage of a resolution by the Board of Trustees; or
 - (c) By the filing of an application by the property owners or authorized agent of each property within the area proposed to be changed or affected by the proposed amendment.
- 2) If the Board of Trustees initiates the amendment, the board shall, upon the passage of such resolution, certify it to the Zoning Commission.

7.03 (C)(1)(e)(ii)

(ii) The Zoning Commission (and Board of Trustees) shall consider the following criteria as conditions for the review and approval of the Stage II Preliminary Development Plan:

(aa) The Preliminary Development Plan is consistent with the intent and purpose of this zoning resolution and, in particular, the furtherance of the purpose of the PUD as set forth in Section 7.02 (Purpose Statements).

(bb) The Preliminary Development Plan is consistent with the current Pierce Township Land Use Plan Update.

(cc) The internal streets and primary and secondary roads that are proposed are adequate to serve the proposed development and properly interconnect with the surrounding existing road network as designated on the Pierce Township Thoroughfare Plan. The plan must demonstrate that improvements or other actions have been or will be taken to mitigate those traffic problems identified by the Zoning Commission, and or in the traffic impact study, if required, that are attributable to the proposed development.

(dd) The proposed infrastructure, utilities and all other proposed facilities are adequate to serve the planned development and properly interconnect with existing public facilities.

(ee) The proposed uses, location and arrangement of structures, lots, parking areas, walks, open spaces, landscaping, lighting and appurtenant facilities are compatible with the surrounding land uses.

(ff) Required resource protection land and open space areas are identified and provisions have been made for the care and maintenance of such areas.

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(gg) The PUD is designed to minimize the impact on the natural environment and complies with the performance standards set forth in Section 7.04.

(hh) The Preliminary Development Plan has been transmitted to all other Township, County, State and or Federal agencies and departments charged with responsibility of review.