

**ARTICLE IXa**  
**OPEN SPACE PLANNED UNIT DEVELOPMENT (OS-PUD)**

**SECTION 9.01a INTENT**

This Section provides enabling authority and standards for the review, and approval of applications for Open Space Planned Unit Developments (OS-PUD's). The intent of this Section 9a is to require an alternative to traditional subdivision design by encouraging innovation and offering flexibility in the design of residential developments, which may incorporate the permanent preservation of open space, agricultural lands and other valuable natural, historical and cultural resources.

The OS-PUD District is intended to achieve the following objectives:

- A. To require a process for designing residential communities in which the first and most important step is identifying the land that is to be preserved as open space.
- B. To allow residential developments to have varied lot sizes, and to allow buildings and roads to be placed to preserve natural features.
- C. To preserve wildlife habitat.
- D. To encourage the provision of open space for active and passive recreational use.

**SECTION 9.02a DEFINITIONS**

For purposes of this section, a "subdivision" means any parcel or contiguous parcels of land proposed to be divided, into 10 or more lots, site condominium lots or recorded platted lots, for the purpose of sale, transfer or building construction and which is proposed to be served by an approved private or public road.

For the purposes of this section, "Open Space" means any parcel or area of land that is set aside, dedicated, designated or reserved for public or private use or enjoyment. Such areas may contain, but are not limited to, forests, farmland, fallow fields, floodplains, wetlands, and shorelands. Open Space can also encompass scenic vistas, recreational areas, historic sites, and common space dedicated as a permanent recorded easement.

**SECTION 9.03a OS-PUD REQUIRED**

A subdivision, as defined in this Section, shall only be allowed if approved as an Open Space Planned Unit Development according to the procedures and requirements of this Chapter. However, land which is proposed to be divided in any manner which will result in fewer than 10 new parcels, site condominium units or recorded platted lots may also be developed according to the provisions of this Section.

At such time that a parent parcel is divided so that the act of land division creates a 10<sup>th</sup> new lot from the parent parcel then this 10<sup>th</sup> lot is considered a subdivision as defined herein and shall only be allowed if first approved as an OS-PUD. Any new lots created beyond this 10<sup>th</sup> lot shall also be considered a subdivision and subject to OS-PUD approval.

**SECTION 9.04a AUTHORIZATION & PROCEDURES**

- A. An OS-PUD may only be approved by the Township Board following a recommendation from the Planning Commission in accordance with the procedures of this Ordinance in the following areas:
  - 1. Areas master planned or zoned RR, Rural Residential, or MDR, Medium Density Residential;
  - 2. Areas which are master planned or zoned MHDR, Medium High Density Residential but only if public sewer and water are provided;
  - 3. Reserved;
  - 4. Parcels within the Lake Michigan Shoreline District, Inland Lakes District and North Duck Lake Overlay District are excluded and cannot be rezoned as an OS-PUD.
  
- B. The granting of an OS-PUD rezoning application shall require an amendment of the Zoning Ordinance and Zoning Map. An approval granted under this Article shall constitute part of the Zoning Ordinance.

**SECTION 9.05a UNIFIED CONTROL**

The proposed development shall be under unified ownership or control such that there is one person, group of persons or legal entity having responsibility for the completion and ongoing maintenance of the development in compliance with this Ordinance. This requirement for unified ownership or control shall not prohibit a transfer of ownership or control, so long as it can be demonstrated that the approved OS-PUD site plan and conditions of approval will be maintained unless modified in accordance with the requirements of this Chapter.

**SECTION 9.06a PERMITTED USES**

Land and buildings in an Open Space PUD may only be used for the following uses or combination of such uses:

- A. Single family detached dwelling units.
  
- B. Two family attached dwelling units (duplexes) provided that such dwellings do not constitute more than 25 % of the total dwelling units.
  
- C. Multi-family dwelling units but only if the land requested for rezoning to Open Space OS-PUD is recommended for Medium High Density Residential land use in the Fruitland Township Master Plan and public sanitary sewer and water is provided.
  
- D. Accessory uses, structures and buildings which are customarily associated with the uses specified above including the following:
  - 1. Farming activities are permitted in Dedicated Open Space areas but only if the land requested for rezoning to OS-PUD is master planned or zoned Rural Residential. For purposes of this Section, farming activities shall be limited to the growing of crops, fruits, and vegetables and the raising and keeping of farm animals. In permitting farming activities as part of the OS-PUD, the project shall demonstrate that the farming activities will not pose a nuisance or a hazard to the residents of the OS-PUD.

2. Golf courses, tennis courts, ball fields, bike paths, walking paths, playground, community buildings, horse stables and similar recreational facilities as well as family child care homes, provided such uses are accessory to the residential uses in the OS-PUD. Such uses shall be designed to be used primarily by residents of the OS-PUD but this shall not prohibit non – OS-PUD residents from utilizing these accessory uses provided the rules for such use are set forth in the Open Space Agreement required herein.
  3. Accessory buildings in an OS-PUD shall comply with the requirements of Section 3.08 of this Ordinance.
- E. On Site Use Wind Energy System 65 feet or less in total height.

**SECTION 9.07a USES PERMITTED BY SPECIAL LAND USE**

- A. Any Wind Energy System which is greater than 65 feet.
- B. Met Tower.
- C. Ponds exceeding one (1) acre of surface area.
- D. Group family care home.

**SECTION 9.08a DEVELOPMENT REQUIREMENTS**

**A. Lot Area and Width**

1. For areas master planned or zoned RR or MDR the minimum lot size shall be 30,000 sq. ft with a minimum lot width of 100 ft. However, the Planning Commission may recommend and the Township Board may approve up to 10 % of the total number of lots in an OS-PUD to have no less than 25,000 sq. ft. and 100 ft. of lot width. Such lots may be approved if it is demonstrated that such lot sizes are necessary because of the natural features of the site and that such lot size will be approved for private well and septic systems by the Muskegon County Health Department.

For areas master planned or zoned MHDR the minimum lot size shall be 20,000 sq. ft with 80 feet of lot width but only if public sanitary sewer and water are provided.

- B. The building height, setback, and yard requirements, general provisions, lighting and parking regulations contained in this Ordinance which would apply for the zoning district which is analogous to the Master Plan classification where the OS-PUD is proposed shall be met except that the Township Board following a recommendation from the Planning Commission may increase, decrease or otherwise modify these regulations, as may be requested by the applicant, in order to achieve the objectives of Section 9.01A. Other criteria which shall be used in making these determinations shall include the following:
  1. Whether the modifications requested will result in a project which better satisfies the intent and objectives of this Section.
  2. The modification shall be compatible with adjacent existing and future land uses and shall not significantly adversely affect the use and enjoyment of nearby property.
  3. The modification will result in the preservation of existing vegetation or other natural features on site.

4. The modification is necessary due to topography, natural features or other unusual aspects of the site.
  5. The modification will improve or not impede emergency vehicle and personnel access.
  6. The modification will improve or not impede adequate pedestrian circulation.
  7. The modification shall not result in traffic or other safety hazards; shall not result in visual blight, distraction, or clutter, and shall not otherwise result in a detriment to the public health, safety or general welfare.
- C. Perimeter Lot Sizes. The Planning Commission may require that an OS-PUD be developed with lot sizes on the perimeter which will blend with adjacent residential lands uses, either planned or existing.

**SECTION 9.09a OPEN SPACE REQUIREMENTS**

- A. An OS-PUD shall provide and maintain the following minimum amount of Dedicated Open Space in accordance with the standards of this Article. For purposes of this Ordinance, Dedicated Open Space shall mean that portion of an OS-PUD which is permanently preserved in an undeveloped state through an open space preservation agreement as required herein.
1. For land master planned or zoned Rural Residential or Medium Density Residential 40 percent of the total area of the site shall be preserved as Dedicated Open Space.
  2. For land master planned or zoned Medium High Density Residential 15 percent of the total area of the site shall be preserved as Dedicated Open Space.
- B. Areas Not Counted as Dedicated Open Space.
1. The area within all public or private road rights-of-way.
  2. Golf course.
  3. Any easement for overhead utility lines.
  4. The area within a platted lot, site condominium unit or metes and bounds parcel occupied or to be occupied by a building or structure not permitted to be located in open space.
  5. Off street parking area.
  6. Detention and retention ponds created to serve the project.
  7. Community drain fields.
  8. 50% of the area of existing wetlands, creeks, streams, existing ponds.
  9. 50% of the area of floodplains and 50% of areas of slopes of more than 20%.
- C. Standards for Open Space.

The following standards shall apply to the preserved open space required by this Section:

1. The open space may include a recreational trail, picnic area, children’s play area, community building or other use which, as determined by the Planning Commission, is substantially similar to these uses. These uses, however, shall not utilize more than 50 percent of the Dedicated Open Space.

2. A portion of the Dedicated Open Space shall be located along the public road frontage abutting the site. The depth of this area shall be at least 100 feet not including public road right of-way, and this area shall be left in its natural condition or landscaped to help reduce the view of houses on site from the adjacent roadway and preserve the rural view.
3. Open space areas are encouraged to be linked with any adjacent open spaces, public parks, bicycle paths or pedestrian paths.
4. The open space shall be available for all residents of the development, subject to reasonable rules and regulations and shall be reasonably accessible to the residents of the open space development. Safe and convenient pedestrian access points to the open space from the interior of the open space shall be provided.
5. If the land contains a lake, stream or other body of water, the Planning Commission may require that a portion of the open space abut the body of water.
6. Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, and wetlands.

D. Methods to Preserve Open Space.

The applicant shall provide an open space preservation and maintenance agreement to the Township Board stating that all dedicated open space portions of the development shall be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in title to commitments made as part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the OS-PUD plan, unless an amendment is approved by the Township Board.

The agreement must be acceptable to the Township Board and may consist of a recorded deed restriction, covenants that run perpetually with the land or a conservation easement established according to the Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980 as amended.

The legal instrument shall:

1. Indicate the proposed permitted use(s) of the open space.
2. List the parties who have an ownership interest in the open space. The residents of the OS-PUD by virtue of an association or other similar entity shall at all times maintain an ownership interest in the Dedicated Open Space.
3. Require that the open space be maintained and controlled by parties who have an ownership interest in the Dedicated Open Space.
4. Provide standards for scheduled maintenance of the open space, including periodic removal of underbrush to reduce fire hazard and the necessary pruning and harvesting of trees and new plantings.

**SECTION 9.10a DENSITY & NUMBER OF DWELLING UNITS ALLOWED**

An area which is requested for rezoning to OS-PUD shall only be developed in accordance with the density recommended by the Township Master Plan or zoning district as set forth in the following Density Table.

The Township Board, following a recommendation from the Planning Commission, may choose to allow fewer dwellings than permitted by the Density Table if, in the opinion of the Board, a reduction in the number of dwellings proposed would better achieve the intent and objectives of the OS-PUD district.

A. Density Table

<u>Master Plan Category</u>	<u>Zoning District</u>	<u>Maximum Average Density</u>
Rural Residential (RR)	RR	5 acres/dwelling unit (.2 dwelling units per acre)
Medium Density Residential (MDR)	MDR	2 acres/ dwelling unit (.5 dwelling units per acre)
Medium High Density Residential (MHDR)	MHDR	30,000 sq. ft. per dwelling unit w/o public sanitary sewer and water. (1.45 dwelling units per acre.) 20,000 sq. ft per dwelling unit w/public sewer and water. (2.17 dwelling units per acre)

B. Formula to Determine Number of Dwellings.

The number of dwellings which may be constructed within an OS-PUD shall be determined as follows:

1. Determine gross site area. The gross site area may include road right of way if included in legal description.
2. Subtract half of the Primary Conservation Areas. For purposes of this Ordinance, Primary Conservation Areas shall be defined as existing wetlands, creeks, streams, ponds, floodplains and slopes over 20%.
3. Multiply this acreage by the Maximum Average Density from the Density Table to determine the number of dwellings permitted. Any resulting fraction shall be rounded down to the nearest whole number.

C. The determination of the existence of wetlands and floodplain areas on a parcel shall be demonstrated to the satisfaction of the Planning Commission through a written determination by the Michigan Department of Environmental Quality or by an analysis performed by a professional biologist, ecologist, environmental engineer or similar professional person deemed acceptable to the Planning Commission.

D. Additional dwellings above what is allowed by Section 9.09a.A above may be permitted at the discretion of the Township Board following a recommendation by the Planning Commission if the development provides additional amenities or preserves additional open space which would result in a significant recognizable benefit to the Township and residents of the OS-PUD. Items which could be added to an OS-PUD so it may be eligible for consideration for additional dwelling units shall include one or more of the following items as well as similar items:

1. Provision of recreational facilities such as playground areas with play equipment, ball fields, bike path, man-made lake, and community building or similar recreation facility.
  2. Additional landscaping to preserve or enhance the rural view along the roadway.
  3. Enhancement of existing wetlands, subject to applicable regulations.
  4. Provision of a public water and/or sanitary sewer system.
  5. Providing additional open space on a site different than the proposed OS-PUD site but within Fruitland Township provided such open space would be of benefit to Fruitland Township residents as determined by the Township Board.
- E. Formula for Additional Dwellings. If additional dwelling units are to be permitted by the Township Board as allowed by the above section, the number of dwelling units, which may be constructed shall be determined as follows:
1. Determine gross site area. The gross site area may include road right of way if included in legal description;
  2. Multiply this acreage by the Maximum Average Density from the Density Table to determine the number of dwellings permitted. Any resulting fraction shall be rounded down to the nearest whole number. In no case shall the number of dwelling units exceed what is permitted by this subsection, 9.09a.E.

**SECTION 9.11a      PREPARATION OF OS-PUD PRELIMINARY SITE PLAN:  
4 STEP DESIGN PROCESS**

- A. **4 Step OS-PUD Design Process.** A site plan for an OS-PUD shall be prepared according to the following process. Approval of an OS-PUD site plan shall be based on how closely the site plan conforms to this design process as well as conformance to the standards for approval of an OS-PUD contained in Section 9.14a of this Ordinance.

The applicant shall prepare two plans: a Natural Features & Development Area Map and a Preliminary Site Plan using the design process described below.

<b>STEP 1</b>	<b>Prepare a Natural Features &amp; Development Areas Map</b>
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1. The Natural Features & Development Area Map shall illustrate the Primary Conservation Areas and those other areas on the site which are to be preserved as Dedicated Open Space on the site.
  - Primary Conservation Areas, for purposes of this Ordinance, shall be defined as existing wetlands, creeks, streams, ponds, floodplains and slopes over 20%.
  - The Dedicated Open Space illustrated on this map shall comply with the requirements for open space per Section 9.08a of this Ordinance.
  - Only one half of the Primary Conservation Areas shall be counted toward the required amount of Dedicated Open Space.

2. Label other natural site features such as woods, stands of trees, specimen trees, farm lands and fields, meadows and hedgerows, farm buildings and fences.
3. The Dedicated Open Space as required by Section 9.08a of this Ordinance shall be clearly labeled on the map. The areas outside the Dedicated Open Space shall be illustrated on the map as the Development Area which is the only area where house sites may be located.

<b>STEP 2</b>	<b>Locate House Sites on Natural Features &amp; Development Area Map</b>
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4. On the same Natural Features and Development Area Map illustrate the tentative location of house sites. The number of houses permitted for the site shall be as determined by Section 9.09a of this Ordinance.
  - House sites shall only be located within the Development Area identified in Step 1. A house site shall not be located within the Primary Conservation Areas or other areas illustrated as Dedicated Open Space.
  - The location of house sites should be done according to the following design standards:
    - (i) Houses should be placed so that the predominant view from the house is of open space and not of dwellings on the opposite side of the street.
    - (ii) Houses should be placed so that scenic views are left unblocked or uninterrupted, particularly as seen from the public road right-of-way.
    - (iii) In order to maintain scenic views and rural character, dwellings placed directly on hilltops shall be discouraged if the dwelling is unscreened from the view of nearby properties and roads. Dwellings which are three stories as viewed from nearby public streets, such as a two story walkout, shall also be discouraged as such dwellings can detract from the rural view.

<b>STEP 3</b>	<b>Locate Conceptual Roads on Natural Features &amp; Development Area Map</b>
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5. On the Natural Features & Development Area Map illustrate the conceptual location of streets which shall be designed to serve the house sites identified in Step 2. Trails shall also be illustrated on this plan.
 

The location of streets should be designed according to the following design standards:

  - (i) Avoid crossing wetlands and wildlife habitat areas with streets.
  - (ii) Street systems should be designed to produce terminal vistas (views) of open spaces, village greens, water features, meadows or playing fields.



- (iii) Streets are encouraged to have houses on only one side of the street are to allow residents a view of open spaces within the development.
- (iv) Every effort should be made to connect each street with another to minimize dead-ends, to provide safe and efficient access for emergency and public service vehicles, and to avoid conditions where certain residential streets become collectors that carry the majority of neighborhood traffic.
- (v) Where cul-de-sacs are unavoidable, they should be provided with pedestrian and bike linkages to nearby streets or adjoining neighborhoods.
- (vi) Streets serving new developments should be designed to connect with adjoining properties.
- (vii) OS-PUD developments shall, where feasible and appropriate, provide a trail system that provides pedestrian and bicycle linkage throughout the development, that take advantage of the open space areas. Linkage to future neighborhoods and developments that may occur adjacent to the development may be provided and are encouraged.

<b>STEP 4</b>	<b>Prepare Preliminary Site Plan</b>
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- 6. Next, prepare a separate plan to be known as the Preliminary Site Plan in accordance with the requirements of Section 15.03B herein and
  - Draw lot lines for each house site and the road rights-of-way within the Development Area and
  - Illustrate the boundaries of the Development Area on the Preliminary Site Plan.
  - (i) If permitted by the MCHD, septic drain fields may be located within the Dedicated Open Space areas outside the lot lines.
  - (ii) As part of the Preliminary Site Plan, the applicant shall provide documentation from the Muskegon County Health Department that the soil types in the buildable areas are acceptable for on site well and septic systems.
- 7. The Natural Features Map plan prepared according to Steps 1 and 2 above along with the Preliminary Site Plan prepared according to Steps 3 and 4 shall be submitted to the Planning Commission for preliminary site plan review according to the procedures of this Ordinance.

## SECTION 9.12a DEVELOPMENT REQUIREMENTS

An OS-PUD permitted under this Section shall comply with the following requirements:

- A. Sidewalks. For areas recommended for Medium High Density Residential land use in the Master Plan, the Planning Commission may require sidewalks in accordance with the Township's subdivision and site condominium regulations.
- B. Grading. To preserve the natural appearance and beauty of the property, all graded areas, cuts and fills will be kept to a minimum. In appropriate cases, retaining walls may be required. Grading within the OS-PUD shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and to have a minimal effect upon the environmental characteristics of the land as reasonably feasible.
- C. Private Roads. Private roads within an OS-PUD shall conform to the private road requirements of this Ordinance.
- D. Utilities. The OS-PUD shall be served by either private or community owned well and septic system approved by the Muskegon County Health Department or by a public water and sanitary sewer system.
- E. Storm Water Management.
  - 1. A stormwater management plan shall be submitted with both the Preliminary Development Plan for and the Final Development Plan. This plan shall provide information on how storm water will be controlled during and after construction. This plan shall be subject to the review and approval of the Township Engineer.
  - 2. Storm water shall be substantially managed with green infrastructure such as vegetated swales, rain gardens, stone weirs or dikes, sediment basins and shallow storm water areas. Storm water shall be minimally managed with conventional storm water management structures such as gutters, catch basins, underground pipes, detention ponds, and retention ponds. Underground detention facilities may be permitted.
  - 3. Storm water detention ponds may be allowed for the containment of storm water run off if it is demonstrated that other stormwater management measures as noted above are not feasible due to soil types, topography or other similar site features.
- F. Outdoor Lighting. Outdoor lighting shall be designed and located to avoid casting any direct or reflected glare upon neighboring property or upon adjacent structures within the proposed project.
- G. Signs. Signs shall comply with the sign requirements of this Ordinance.
- H. Minimum Dwelling Unit Size. The minimum size of a dwelling unit shall be as required for dwellings normally permitted by the Zoning District as recommended by the Master Plan.

- I. Setbacks Abutting Agricultural Uses. Where an area requested for a OS-PUD zoning abuts an active farm the Planning Commission may recommend and the Board may approve a requirement that a buffer zone of 250 feet be provided along that portion of the OS-PUD abutting the farm to mitigate any adverse effects of the farm operation on future residents of the OS-PUD and to protect the farm operation from the impacts of non-farm residents. This buffer zone could include but would not be limited to greater setbacks for dwellings and yards, the provision of earthen berms or landscaping or a combination of these and other methods.

**SECTION 9.13a PUBLIC AND PRIVATE STREET CONNECTIONS TO ADJACENT PROPERTY**

- A. Public or private streets may be required to be extended to an adjacent property line by the Township Board following a recommendation from the Planning Commission which shall be based on both of the following criteria:
1. The road extension is a logical method to achieve the safe and efficient movement of vehicles and pedestrians between residential areas and to reduce the amount of vehicle trips which would otherwise need to utilize the public street system to access adjoining residential areas. In making this determination, the Planning Commission shall consider the likelihood of the adjacent property being developed, whether the natural site features on the adjacent property preclude or present difficulty in extending the public or private road, and if the adjacent site is already developed so as to prevent the extension of the public or private road.
  2. The road extension would not result in future traffic from off-site creating unsafe situations for the residents of the project proposed by the applicant.
- B. If such a connection is required the Planning Commission shall require that one of the following methods be followed:
1. The applicant shall construct the road to the adjacent property line at the time that the private road is built;
  2. The applicant shall illustrate an easement for the future road on the approved OS-PUD site plan and record an agreement to construct the road connection within the easement when the adjacent property develops and:
    - (i) the Planning Commission determines the necessity of the road connection OR
    - (ii) the owners of the properties to be served by the road connection agree to the necessity of the road connection.
- C. The road connection shall remain open at all times for the uninterrupted movement of people and vehicles

**SECTION 9.14a PROCEDURES TO REVIEW AN OS-PUD REQUEST**

- A. Application. An applicant for an OS-PUD rezoning shall comply with the submittal and review requirements of Section 14.12 A-D of this Ordinance.

- B. Pre-application Conference. Before submitting an application for a OS-PUD, an applicant may meet with the Planning Commission or Township Zoning Administrator, Planner or Engineer to submit information regarding a proposed OS-PUD and to confer with the Planning Commission, or staff, about the proposed application and the OS-PUD.
- C. Preliminary Development Plan. An applicant for OS-PUD rezoning shall submit 10 copies of the site plans required by Section 9.10a of this Section. The site plan shall also note the following information:
1. The proposed density, number, and types of dwelling units.
  2. Calculations demonstrating compliance with the ordinance requirements for open space and number of permitted dwellings.
- D. Environmental Impact Assessment. The Planning Commission may require at the applicants expense an environmental impact assessment as part of the Preliminary or Final Site Plan. This assessment shall at a minimum describe the effect and impact that the proposed OS-PUD will or may have upon the lands involved and the adjacent and nearby lands, streams, rivers, wetlands, and the quality and volume of surface and groundwater; wildlife and trees, and other significant vegetation.
- E. Review of Preliminary Development Plan. The Planning Commission shall review the preliminary development plan and make recommendations to the applicant regarding the OS-PUD, together with any recommended changes or modifications thereof.
- F. Final Development Plan.
1. After receiving the recommendations of the Planning Commission on the preliminary development plan, the applicant for OS-PUD rezoning shall submit a Final Development Plan to the Township office in accordance with the requirements for Final Site Plan Review as contained in Section 15.03.C of this Ordinance. Copies of the plan shall be forwarded to the Planning Commission.
  2. The Final Development Plan shall contain all of the information required for Final Site Plan review unless the same is waived by the Planning Commission as not being reasonably necessary for the consideration of the OS-PUD plus the following:
    - (i) All of the drawings, narrative, studies, assessments, and other information, and materials comprising the preliminary development plan, including all of the recommendations of the Planning Commission thereon.
    - (ii) Projected time for completion of the entire OS-PUD and the proposed phasing, if any, of the OS-PUD.
    - (iii) Any other information reasonably required by the Planning Commission in connection with its review of the OS-PUD and consideration of the rezoning of the lands in accordance with the OS-PUD plan.

- G. Planning Commission Public Hearing on Final Development Plan. The Planning Commission shall hold a public hearing on the Final Development Plan and the application for rezoning in accordance with the Plan. Notice of the hearing shall be given as required by this Ordinance for re-zonings.
- H. Consideration of Final Development Plan by Planning Commission. After the public hearing, the Planning Commission shall make recommendations concerning the Final Development Plan and the modifications in the Final Development Plan and the rezoning, to the Township Board.
- I. Standards for Approval. In making a recommendation to approve an OS-PUD, the Planning Commission must find that the proposed OS-PUD meets the standards for approval as contained in Section 9.14a.
- J. Final Consideration of OS-PUD by Township Board. The Township Board shall hold a public hearing on the Final Development Plan and the recommendations submitted by the Planning Commission. Notice of the hearing shall be given as required by this Ordinance for re-zonings.

The Township Board shall determine whether the Final Development Plan complies with the standards, conditions, and requirements of this Ordinance and, in addition, shall determine whether the proposed project promotes the intent and purpose of this Ordinance; insures that the proposed project will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed project; and insures that the proposed project will be consistent with the public health, safety, and welfare needs of the Township.

Upon a determination that a proposed project meets such standards, conditions, and requirements, the Township Board may approve the final development plan and grant the rezoning request.

- K. Conditions of Approval. The Township Board may impose reasonable conditions upon its approval. Such conditions may include conditions necessary to insure that public services and facilities affected by a proposed project will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements.
  - 1) They shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the proposed project under consideration, residents, and landowners immediately adjacent to the proposed project and the community as a whole.
  - 2) They shall be related to the valid exercise of the police power, and the purposes which are affected by the proposed project.

- 3) They shall be necessary to meet the intent and purpose of this Ordinance, be related to the standards established in the Ordinance for the proposed OS-PUD under consideration, and be necessary to insure compliance with those standards.

The conditions imposed with respect to the approval of a OS-PUD shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Township Board and the property owner. The Township Board shall maintain a record of conditions which are changed.

L. Rezoning. If the Township Board approves the Final Development Plan and the proposed application for rezoning, it may rezone the property in accordance with the Township Zoning Act as amended. Publication of the rezoning ordinance or publication of a summary of the provisions thereof shall be accomplished in the manner provided by law. Following approval of the OS-PUD rezoning the Official Zoning Map of Fruitland Township shall be changed to reflect the OS-PUD zoning for the parcel.

M. Conformance to Final Development Plan

A OS-PUD shall be constructed in strict conformance with the approved Final Development Plan and any conditions of approval. Any changes shall only be allowed in accordance with the requirements of Section 9.15a herein.

#### **SECTION 9.15a          STANDARDS FOR APPROVAL**

In making a recommendation to approve a OS-PUD, the Planning Commission must find that the proposed OS-PUD meets the standards for Final Development Plan approval as contained in Section 15.07 of this Ordinance and the following standards as applicable:

- A. Granting the OS-PUD rezoning will result in a recognizable and substantial benefit to ultimate users of the project and to the community, and the benefit would otherwise be unfeasible or unlikely to be achieved.
- B. The OS-PUD will not result in a significant increase in the need for public services and facilities and will not result in significant adverse effects upon nearby or adjacent lands or the natural environment unless the resulting adverse effects are adequately provided for or mitigated by features of the OS-PUD as approved.
- C. The OS-PUD will be compatible with the Master Plan of the Township and consistent with the intent and purpose of the OS-PUD Section.
- D. The OS-PUD is designed to substantially comply the with the four step design process of Section 9.10a and the development requirements of Section 9.11a herein.
- E. Protects the rural roadside character by preserving or enhancing the existing view along the roadway.
- F. The individual lots, buildings, roadways, and open space areas are designed to minimize the alteration of environmental site features.

**SECTION 9.16a AMENDMENTS TO APPROVED OS-PUD.**

- A. An approved Final OS-PUD Development Plan and any conditions imposed upon Final OS-PUD approval shall not be changed except upon the mutual consent of the Township Board and the applicant except as otherwise noted below.
- B. Minor Amendments. A minor change may be approved by the Zoning Administrator who shall notify the Planning Commission and the applicant in writing of the minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the Commission.

The following items shall be considered as minor changes:

- 1. Reduction of the size of any building and/or sign.
- 2. Movement of buildings or dwellings and/or signs by no more than 10 feet provided all setback requirements of the OS-PUD are still met.
- 3. Plantings approved in the site plan landscape plan may be replaced by similar types of landscaping.
- 4. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
- 5. Changes required or requested by the Township for safety reasons.
- 6. Changes which will preserve the natural features of the site without changing the basic site layout.
- 7. Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety and welfare.

The Zoning Administrator may refer any decision regarding any proposed change to an approved site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator may consult with the Chairperson of the Planning Commission or the Planning Commission.

- C. A proposed change, other than a minor change as determined by the Zoning Administrator, shall be submitted as an amendment to the OS-PUD and shall be processed in the same manner as an original OS-PUD application except that the OS-PUD zoning shall remain in place.

**SECTION 9.17a          PERFORMANCE GUARANTEES**

The Township Board, after recommendation by the Planning Commission, or in its own discretion, may require reasonable performance guarantees or assurances in accordance with Section 20.11 of this Ordinance.

**SECTION 9.18a          TIME LIMITATIONS ON DEVELOPMENT**

Each OS-PUD shall be under construction within one year after the date of approval of the final development plan and adoption of a zoning ordinance amendment by the Township Board. If this requirement is not met, the Planning Commission may, in its discretion, grant an extension not exceeding one year, provided that the OS-PUD applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in commencement of the OS-PUD.

If the OS-PUD has not been commenced within the above-stated period of time, or within any authorized extension thereof, the Final Development Plan shall be of no further effect, and the Planning Commission and Township Board may then, in their discretion, initiate proceedings for the rezoning of the lands to some other zoning district.

If the property is not rezoned, then the subject property remains zoned as an OS-PUD, but the preliminary or final OS-PUD plans previously approved are voided. In order to utilize the property as an OS-PUD, an applicant shall submit plans for preliminary and final OS-PUD site plan approval as required by this Section, but OS-PUD rezoning by the Board shall not be required.

**SECTION 9.19a          APPEAL/VARIANCE**

The Zoning Board of Appeals shall not have jurisdiction to accept appeals or to grant variances with respect to an approved Open Space Planned Unit Development.