ARTICLE 14.00
OPEN SPACE COMMUNITY
PLANNED UNIT DEVELOPMENT
Effective May 6, 2009

Section 14.1. Intent

It is the intent of this Article to offer an alternative to traditional subdivisions through the use of Planned Unit Development legislation, as authorized by Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended) for the purpose of:

A. Encouraging the use of Township land in accordance with its character and adaptability;
B. Assuring the permanent preservation of open space, agricultural lands, and other natural resources;
C. Providing recreational facilities within a reasonable distance of all residents of the Open Space Community development;
D. Allowing innovation and greater flexibility in the design of residential developments;
E. Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
F. Ensuring compatibility of design and use between neighboring properties; and,
G. Encouraging a less sprawling form of development, thus preserving open space as undeveloped land.

These regulations are intended to preserve a traditional rural character to the land use pattern in the Township through the creation of small residential nodes contrasting with open space and less intensive land uses. This Article is not intended as a device for ignoring the Zoning Regulations of the Township, the standards set forth therein, nor the planning concepts upon which the Zoning Ordinance has been based.

These regulations are intended to result in a specific development substantially consistent with Zoning Ordinance standards, yet allow for modifications from the general standards to insure appropriate, fair, and consistent decision making.

The open space community district is established as an overlay district applicable to all single family residential districts.

Section 14.2. Scope

For the purposes of this Article, an “open space community” is defined as a predominately single family residential development in which dwelling units are placed together into one or more
groupings within a defined project area. The dwelling units are separated from adjacent properties or other groupings of dwellings by substantial open space that is perpetually protected from development. Commercial uses, as stated in Section 14.5.3, may be allowed within open space communities of fifty (50) acres or more.

**Section 14.3. Eligibility Criteria**

To be eligible for open space community consideration, the applicant must present a proposal for residential development that meets each of the following:

A. **Recognizable Benefits.** An open space community shall result in a recognizable and substantial benefit, both to the residents of the property and to the overall quality of life in the Township. The benefits can be provided through site design elements in excess of the requirements of this Ordinance, such as high quality architectural design, extensive landscaping, provide transition areas from adjacent residential land uses, unique site design features, unified access, preservation of woodlands and open space, particularly along major thoroughfares, and buffering development from lakes, rivers, streams and wetlands. This benefit should accrue, in spite of any foreseeable detriments of the proposed development.

B. **Open Space.** The proposed development shall provide at least one of the following open space benefits:

1. **Significant Natural Assets.** The site contains significant natural assets such as woodlands, individual trees over twelve (12) inch diameter, measured at breast height, rolling topography with grades exceeding 15%, significant views, natural drainage ways, water bodies, floodplains, regulated or non-regulated wetlands, or natural corridors that connect quality wildlife habitats which would be in the best interest of the Township to preserve and which might be negatively impacted by conventional residential development. This determination shall be made by the Planning Commission after review of a Site Analysis Plan, prepared by the applicant, that inventories these features. If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that the Open Space Community plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.

2. **Recreation Facilities.** If the site lacks natural features, it can qualify if the development will preserve an existing recreation facility or provide usable recreation facilities to which all residents of the development shall have reasonable access. Such recreation facilities include areas such as a neighborhood park, golf course, passive recreational facilities, soccer fields, ball fields, bike paths or similar facilities which provide a feature of community-wide significance and enhance residential development.

3. **Creation of Natural Features.** If the site lacks existing natural features, it can also qualify if the development will create significant woodland features.
The creation of significant woodland features shall be considered providing perimeter buffer plantings and interior street tree plantings at a rate of twice (2 x) what is required by this Ordinance.

C. **Guarantee of Open Space.** The applicant shall guarantee to the satisfaction of the Township Planning Commission that all open space portions of the development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a 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 open space community plan.

D. **Cohesive Neighborhood.** The proposed development shall be designed to create a cohesive community neighborhood through common open space areas for passive or active recreation and resident interaction. All open space areas shall be equally available to all residents of the Open Space Community.

E. **Unified Control.** The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.

F. **Density Impact.** The proposed type and density of use shall not result in an unreasonable increase in the need for or impact to public services, facilities, roads, and utilities in relation to the use or uses otherwise permitted by this Ordinance, and shall not place an unreasonable impact on the subject and/or surrounding land and/or property owners and occupants and/or the natural environment. The Planning Commission may require that the applicant prepare an impact statement documenting the significance of any environmental, traffic or socio-economic impact resulting from the proposed open space community. An unreasonable impact shall be considered an unacceptable significant adverse effect on the quality of the surrounding community and the natural environment in comparison to the impacts associated with conventional development. The Planning Commission may require that the applicant prepare a quantitative comparison of the impacts of conventional development and the open space community plan to assist in making this determination (such as an overlay of conceptual development plans, on a natural features map, illustrating other site development options to demonstrate the impacts have been minimized to the extent practical). If the cumulative impact creates or contributes to a significant problem relative to infrastructure demand or environmental degradation, mitigation shall be provided to alleviate the impacts associated with the open space community.

G. **Township Master Plan.** The proposed development shall be consistent with and further the implementation of the Township Master Plan.
Section 14.4. Project Design Standards. A proposed open space community shall comply with the following project design standards:

14.4.1. Location. An open space community may be approved within any of the following zoning districts: RAA, RA, RB, NR, WFR or VR.

14.4.2. Permitted Uses. An open space community is generally restricted to single family detached or attached residential dwellings.

   A. Unless modified by the Planning Commission following the standards herein, all residential dwellings shall meet the yard, lot width, and bulk standards required by Article 7.00, except that single family attached dwellings may have zero (0) side lot lines.

   B. In projects that qualify under the standards of Section 14.5, a commercial or a multiple family component may be allowed by the Planning Commission.

14.4.3. Dwelling Density. The number of dwelling units allowable within an open space community project shall be determined through preparation of a parallel plan.

   A. The applicant shall prepare, and present to the Planning Commission for review, a parallel design for the project that is consistent with State, County and Township requirements and design criteria for a tentative preliminary plat. The parallel plan shall meet all standards for lot size (as shown in paragraph B below), lot width and setbacks as normally required under Section 7.6, public roadway improvements and private parks, and contain an area which conceptually would provide sufficient area for storm water detention. Lots in the parallel plan shall provide sufficient building envelope size without impacting wetlands regulated by the Michigan Department of Environmental Quality. This design shall include all information as required by the guidelines adopted by the Planning Commission pursuant to Section 14.7.1.

   B. The parallel plan shall be prepared with the following minimum lot areas. The parallel plan is only used to determine allowable density for an open space community project. The following parallel plan minimum lot areas incorporate a density bonus for qualifying open space community projects that meet all requirements of this ordinance:
<table>
<thead>
<tr>
<th>Underlying Zoning District</th>
<th>Parallel Plan Minimum Lot Size (square feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>RAA</td>
<td>60,000</td>
</tr>
<tr>
<td>RA</td>
<td>30,000</td>
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<tr>
<td>RB</td>
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<td>NR</td>
<td>30,000</td>
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<tr>
<td>WFR</td>
<td>30,000</td>
</tr>
<tr>
<td>VR</td>
<td>10,000 *</td>
</tr>
</tbody>
</table>

* The open space community shall be served by public sanitary sewer and water.

C. The Planning Commission shall review the design and determine the number of lots that could be feasibly constructed and be economically viable following the parallel design. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable for the open space community project. The Planning Commission may grant a density bonus for exemplary projects that meet the conditions outlined in Section 14.5

14.4.4. Open Space Community Plans Not requiring Public Hearing

An Open Space Community that results in the same number of lots as would be permitted under Article 8.8.2. Land Divisions and Combinations may be permitted by the Planning Commission following normal site plan review procedures outlined in Article 4.00.

14.4.5. Water and Sewer Service. If there is public water or sewer service available to the site on which an open space community development is proposed, the Planning Commission may require connection into the system. An open space community project located within the RB, High Density Residential or the VR, Village Residential zoning districts shall be required to be served by public sanitary sewer.

14.4.6. Base Zoning Regulations. Unless specifically waived or modified by the Planning Commission, all Zoning Ordinance requirements for the underlying zoning district, except for minimum lot area, and other Township regulations shall remain in full force.

14.4.7. Regulatory Flexibility.

A. To encourage flexibility and creativity consistent with the open space community concept, departures from compliance with the standards provided for in the zoning ordinance may be granted at the discretion of the Planning Commission as part of the Open Space Community approval process. Such departures may be authorized on the condition that there are features,
amenities or planning mechanisms deemed adequate by the Planning Commission designed into the project for the purpose of achieving the objectives intended to be accomplished with respect to each of the regulations from which a departure is sought. Any deviations from zoning ordinance standards will require the Applicant to provide substitute safeguards for each regulation for which there is noncompliance, in whole or in part, in the development plan.

B. Any regulatory modification 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 an open space community plan may be appealed to the Zoning Board of Appeals. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the Open Space Community, provided such variance does not involve alterations to open space areas as shown on the approved Open Space Community site plan.

C. A table shall be provided on the site plan which specifically details all deviations from the established zoning area, height and setback regulations, off-street parking regulations, general provisions, or subdivision regulations which would otherwise be applicable to the uses and development proposed in the absence of this Open Space Community article. This specification should include Ordinance provisions from which deviation are sought, and the reasons and mechanisms to be utilized for the protection of the public health, safety, and welfare in lieu of the regulations from which deviations are sought. Only those deviations consistent with the intent of this Ordinance shall be considered.

14.4.8. Open Space Requirements.

A. All land within a development that is not devoted to a residential unit, an accessory use, vehicle access, vehicle parking, a roadway, an approved land improvement, or, if applicable, a commercial use, shall be set aside as common land for recreation, conservation, agricultural uses, or preserved in an undeveloped state. Grading in the open space shall be minimal, with the intent to preserve existing topography.

B. An open space community shall maintain a minimum of forty percent (40%) of the gross area of the site as dedicated upland open space held in common ownership. Such open space may be reduced to thirty percent (30%) for lower density projects as described in Section 14.4.7.I. Except as noted in Section 14.4.7.C, any undeveloped land area within the boundaries of the site meeting the open space standards herein may be included as required open space. A minimum of twenty-five percent (25%) of the required open space shall be
upland area exclusive of wetlands that is accessible to all residents of the Open Space Community and not include golf course fairways or private roads.

C. Areas Not Considered Open Space. The following land areas are not included as dedicated open space for the purposes of this Article:

1. The area of any street right-of-way proposed to be dedicated to the public. This provision shall not preclude the future dedication of a private road easement to a public road agency.

2. Any submerged land area.

3. Any portion of the project used for commercial purposes.

4. The required setbacks surrounding a residential structure that is not located on an individual lot or condominium site.

D. The common open space may either be centrally located along the road frontage of the development, located to preserve significant natural features, or located to connect open spaces throughout the development. The open space along the exterior public roads shall generally have a depth of at least one hundred (100) feet, either landscaped or preserved in a natural wooded condition. The open space along the exterior public roads shall be landscaped with a minimum of one (1) evergreen tree or canopy tree for each twenty (20) feet of road frontage. Such plantings shall be planted in staggered rows or clustered into groupings to provide a natural appearance. Preservation of existing trees may be credited towards meeting the frontage landscaping requirement.

E. Connections with adjacent open space, public land or existing or planned pedestrian/bike paths may be required by the Planning Commission.

F. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the Planning Commission, such as:

1. Recorded deed restrictions,

2. Covenants that run perpetually with the land, or


Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:
1. Indicate the proposed allowable use(s) of the dedicated open space. The Planning Commission may require the inclusion of open space restrictions that prohibit the following:
   a. Dumping or storing of any material or refuse;
   b. Activity that may cause risk of soil erosion or threaten any living plan material;
   c. Cutting or removal of live plant material except for removal of dying or diseased vegetation;
   d. Use of motorized off road vehicles;
   e. Cutting, filling or removal of vegetation from wetland areas;
   f. Use of pesticides, herbicides or fertilizers within or adjacent to wetlands.

2. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.

3. Provide standards for scheduled maintenance of the open space.

4. Provide for maintenance to be undertaken by the Township of Hamburg in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.

G. Continuing Obligation. The dedicated open space shall forever remain open space, subject only to uses approved by the Township on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easements for utilities and septic systems, shall be strictly prohibited. Open space may include golf course area, provided that it forever remains outdoor recreation or natural undeveloped land.

H. Allowable Structures. Any structure(s) or building(s) accessory to a recreation, conservation or agriculture use may be erected within the dedicated open space, subject to the approved open space plan. These accessory structure(s) or building(s) shall not exceed, in the aggregate, one percent (1%) of the required open space area.

I. Large Lot Open Space. The Planning Commission has the discretion to allow lower density Open Space Communities with larger lots and less open space. For these Large Lot Open Space Communities, the required minimum open
space area may be reduced from forty percent (40%) to thirty percent (30%) where the total number of dwelling units, determined under Section 4.4.3, is reduced by at least ten percent (10%).

14.4.9. Compatibility with Adjacent Uses. The proposed location of accessory uses or structures that are of a significantly different scale or character than the abutting residential districts, such as access drives, parking areas, solid waste pick-up points, swimming pools, tennis courts and facilities of a similar nature, shall not be located near the boundary of the development or so as to negatively impact the residential use of adjacent lands.

14.4.10. Transition Areas. Where the Open Space Community abuts a single family residential district, the Planning Commission may require a transition area. Grading within the transition area shall be minimal unless needed to provide effective buffering or accommodate drainage. If the grade change adjacent to single family residential is to be varied by more than three (3) feet, the site plan shall include cross sections illustrating existing and proposed grades in relation to existing and proposed building heights. Perspective renderings from adjacent residential units are encouraged. The Planning Commissions may review the proposed transition area to ensure compatibility. The Planning Commission may require that the transition area consist of one or more of the following:

A. A row of single-family lots or condominium sites similar to adjacent single family development in terms of density, lot area, lot width, setbacks and building spacing.

B. Woodlands, natural features or a landscaped greenbelt sufficient to provide an obscuring effect.

C. Open or recreation space.

D. Significant changes in topography which provide an effective buffer.

14.4.11. Architectural and Site Element Design. Residential facades shall not be dominated by garages; at least forty percent (40%) of residential units shall have side entry garages or recessed garages where the front of the garage is at least five (5) feet behind the front line of the living portion of the principal dwelling. The intent of encouraging recessed or side entry garages is to enhance the aesthetic appearance of the development and minimize the aesthetic impact resulting from the close clustering of units allowed under these regulations. Building elevations shall be required for all structures other than single family dwellings.

Signage, lighting, entryway features, landscaping, building materials for the exterior of all structures, and other features of the project, shall be designed and completed with the objective of achieving an integrated and cohesive development, consistent with the character of the community, surrounding development, and natural features of the area. The Planning Commission may require street or site lighting where appropriate.
14.4.12. **Access.** Direct access onto a County road or State highway shall be required to an open space community. The nearest edge of any entrance or exit drive shall be located no closer than two hundred (200) feet from any existing street or road intersection (as measured from the nearest intersection right-of-way line). Open Space Communities shall also meet or exceed the access standards contained in Section 10.8 of this Ordinance. The requirements of this section may be waived or modified by the Planning Commission in accordance with Section 14.4.7, A upon a finding by the Planning Commission that safe and reasonable access cannot otherwise be provided in a manner that complies with the standards of the zoning ordinance, including the provisions specified above, and that proposed deviations from these ordinance standards will result in safe and reasonable access to the site. The Planning commission may require the submission of a traffic impact study to document the conditions and circumstances that prevent compliance with these standards, and if so it shall be the burden of the Applicant to demonstrate that safe and reasonable access is provided by the Open Space plan.

14.4.13. **Internal Roads.** Internal roads within an open space community may be public or private.

A. Construction of private roads as a means of providing access and circulation is encouraged. Private roadways within an open space community must meet the design requirements of the Township Private Road Ordinance. The Planning Commission may modify these requirements, if all of the following findings are made:

1. There is no potential for the road to connect with abutting land or be extended to serve additional land in the future.

2. Significant natural features such as mature trees, natural slopes, wetlands or other water bodies would be preserved through allowing a modification to the Private Road standards.

B. Where private roads are developed, a maintenance plan, including a means of guaranteeing maintenance assessments from the affected property owners, shall be reviewed and approved by the Township Planning Commission.

C. Both sides of all internal roads shall be landscaped with street trees. For road frontages of individual lots or condominium sites, a minimum of two (2) canopy trees shall be provided per dwelling. For sections of road that do not abut lots or condominium sites, one canopy trees shall be provided on each side for every fifty (50) feet or road. Existing trees to be preserved within five (5) feet of the road right-of-way or easement may be credited towards meeting this requirement.

14.4.14. **Pedestrian Circulation.** The Open Space Community plan shall provide pedestrian access to all open space areas from all residential areas, connections between open space areas, public thoroughfares, and connections between appropriate on- and off-site uses. Trails within the open space community may be constructed of gravel, woodchip or other
similar material, but the Planning Commission may require construction of eight (8) foot wide asphalt bike paths through portions of the development or along the any public right-of-way abutting the open space community. The Planning Commission may require the construction of sidewalks for Open Space Communities within the area included in the Hamburg Village Sub-area Master Plan. Locations for school bus stops shall be provided on the site plan.

14.4.15. Natural Features. The development shall be designed to promote the preservation of natural features. If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that the open space community plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas. The Planning Commission may also require a minimum of twenty five (25) foot wide undisturbed open space setback from the edge of any, lake, pond, river, stream or wetland; provided that the Planning Commission may permit trails, boardwalks, observation platforms or other similar structures that enhance passive enjoyment of the site’s natural amenities within the setback.

14.4.16. Existing Structures. When a tract contains structures or buildings deemed to be of historic, cultural or architectural significance, as determined by the Planning Commission, and if suitable for rehabilitation, the structures shall be retained. Adaptive reuse of existing structures for residential use or permitted accessory residential uses shall be permitted.

Section 14.5. Optional Provisions for Exemplary Projects. The Planning Commission may allow an exemplary open space community to include one or more of the following optional provisions. In order to qualify for an optional provision, the applicant must demonstrate, to the satisfaction of the Planning Commission, that the proposed project exceeds the minimum standards for open space community eligibility under Section 14.3.

In order to qualify for development under the optional provisions of this section, all structures within the project, including single family dwellings, shall be subject to architectural review by the Planning Commission. Buildings shall provide harmony with adjacent uses in terms of texture, materials, peaked roof lines and massing, but there shall be a variation of front facade depth and roof lines to avoid monotony. Building elevations shall be required for all structures.

14.5.1 Density Bonus. A variable density bonus of up to fifteen percent (15%) may be allowed at the discretion of the Planning Commission, based upon a demonstration by the applicant of design excellence in the open space community. In order to qualify for a density bonus, the Open Space Community must be served by public sanitary sewer. Projects qualifying for a density bonus shall include at least one of the following elements:

A. A high level of clustered development were a minimum of sixty percent (60%) of the Open Space Community is common open space.

B. Inclusion of an integrated mixture of housing types.
C. Providing perimeter transition areas around all sides of the development that are at least one hundred fifty (150) feet in depth.

D. Cleanup of site contamination.

E. Other similar elements as determined by the Planning Commission.

14.5.2 Multiple Family Component. In an open space community with a gross area of fifteen (15) acres or more, up to fifty percent (50%) of the dwelling units may be other than single-family dwellings. Such units shall meet the following design standards:

A. Front Yard. The minimum building setback from an internal road shall be twenty five (25) feet from the public street right-of-way or private road easement. The Planning Commission may reduce the setback based upon a determination that off-street parking will be adequate, and that the modification will preserve natural features or that the rear yard buffer will be increased by one (1) foot for each one (1) foot of reduction in the front yard setback. In no instance shall the front yard setback be reduce below a minimum of fifteen (15) feet. Buildings that front on two streets must provide the required front yard setback from both streets.

B. Rear Yard: A thirty five (35) foot rear yard shall be maintained for all buildings. Where the rear of a building abuts the side or rear of another residential structure, the minimum spacing between the structures shall be the combined total of the two setback requirements.

C. Side Yards. A ten (10) foot setback shall be maintained to the side of all residential buildings. Where two buildings are located side-by-side, a thirty five (35) foot spacing shall be maintained between apartment buildings.

D. Off-street Parking Lots. Off-street parking lots serving three (3) or more dwelling units shall provide a ten (10) foot wide open green space area around the perimeter of the parking lot.

E. The building setback requirements may be varied provided they are specifically indicated on the Open Space Community plan and the Planning Commission determines the variation does not negatively impact adjacent properties and provides a recognizable benefit. Building setback requirements on the perimeter of the development shall not be reduced below thirty five (35) feet.

14.5.3. Commercial Component. An open space community with a gross area of fifty (50) acres or more may incorporate a commercial land use component, provided that all of the following are met:

A. The commercial component shall be located on a lot of sufficient size to contain all commercial structures, parking, and landscape buffering. The total
area occupied by the commercial land uses may not exceed five percent (5%) of the gross area of the open space community or five (5) acres, whichever is less.

B. All commercial uses shall be compatible with the residential area.

C. The Planning Commission finds that the architectural design of the structures is compatible with the balance of the development.

D. All commercial structures are connected to a pedestrian access system servicing the project.

E. Vehicular access is available only from an access drive to the open space community that connects directly with M-36.

F. If a proposed project cannot provide direct access to M-36, the Planning Commission may approve a commercial land use component for an Open Space Community project located on any paved County thoroughfare, subject to:

1. A special land use hearing on the location of the use being held prior to consideration by the Planning Commission. The hearing shall be conducted according to the procedures stated in Section 3.5. of this Ordinance, and

2. The Planning Commission making the finding that the overall site layout, including the architectural design and the vehicular circulation pattern, is:

   a. Compatible with the surrounding land uses, and

   b. Will not have a significant detrimental effect on the character of surrounding residential uses.

G. All parking and loading areas serving the commercial uses shall be to the rear or side of the structure and fully screened from view of any public roadway, except that the Planning Commission may allow up to twenty five percent (25%) of the minimum number of required parking spaces in the front yard. Where the parking lot is visible from residential units or open space, it shall be planted with a landscape buffer consisting of evergreen trees spaced no more than fifteen (15) feet on center.

H. The allowable commercial uses within such an area shall be recorded as a deed restriction on the property and shall be restricted to the following:

1. Food and beverage stores for the sale of: groceries, fruit, meat, baked goods, dairy products, beverages and liquor.
2. Personal service establishments such as barber shops, beauty salons, laundry pick-up, and similar uses.

3. Child care or day care centers.

4. Offices for the professions or occupations of doctor, dentist, attorney, engineer, accountant, architect, financial consultant or broker, publisher, real estate broker, secretarial services, and similar uses as determined by the Planning Commission, may be permitted, subject to findings by the Planning Commission that (a) a use is consistent with the intent of this Article and (b) provides no significant negative impact on the open space community project or other surrounding land uses.

I. No structure within the commercial land use component of an open space community shall be occupied without a valid certificate of occupancy from the Township.

1. A request for a certificate of occupancy for a commercial structure within an open space community shall be reviewed by the Zoning Administrator to insure compliance with this Article.

2. A certificate of occupancy may be approved only for uses identified in sub-section 14.5.3(H). Approval shall not be granted to a use that is inconsistent with the intent and/or requirements of this Article.

3. The initial certificate of occupancy for a commercial structure or portion of a commercial structure within the open space community shall not be approved until fifty percent (50%) of the physical improvements related to the residential components of the total open space community plan are complete, notwithstanding an approved schedule for project phasing.

4. A certificate of occupancy may be revoked by action of the Zoning Administrator, if a use is conducted in a manner that does not comply with the intent of this Article and/or any other requirements of this Ordinance.

Section 14.6. Project Standards

In considering any application for approval of a open space community site plan, the Planning Commission shall make their determinations on the basis of the standards for site plan approval set forth in Article 4.00, as well as the following standards and requirements:

14.6.1. Compliance with the Open Space Community Concept. The overall design and land uses proposed in connection with an open space community shall be consistent the
intent of the open space community concept, as well as with specific design standards set forth herein.

14.6.2. **Compatibility with Adjacent Uses.** The proposed open space community plan shall set forth in detail, all specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design features that exhibit due regard for the relationship of the development to surrounding properties, the character of the site, and the land uses. In determining whether this requirement has been met, consideration shall be given to:

   A. The bulk, placement, and materials of construction of proposed structures.

   B. Pedestrian and vehicular circulation.

   C. The location and screening of vehicular use or parking areas.

   D. The provision of landscaping and other site amenities.

14.6.3. **Impact of Traffic.** The open space community shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses.

14.6.4. **Protection of Natural Environment.** The proposed open space community shall be protective of the natural environment. It shall comply with all applicable environmental protection laws and regulations.

14.6.5. **Compliance with Applicable Regulations.** The proposed open space community shall comply with all applicable Federal, state, and local regulations.

14.6.6. **Township Master Plan.** The proposed open space community shall be consistent with and further the implementation of the Township Master Plan.

14.6.7 **Conditions.** Reasonable conditions may be required with the special approval of a Open Space Community, to the extent authorized by law, for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, promoting the use of land in a socially and economically desirable manner, and further the implementation of the Township Master Plan. Conditions imposed shall be designed to protect natural resources, and the public health, safety and welfare of individuals in the project, those immediately adjacent and the community as a whole; shall be reasonable related to the purposes affected by the Open Space Community; shall be necessary to meet the intent and purpose of this Ordinance and implement the Township Master Plan; and be related to the objective of ensuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the special approval.
Section 14.7. General Requirements

14.7.1. General Application Requirements. The application for approval of an open space community shall be made according to procedures and guidelines adopted by resolution of the Planning Commission. The required materials shall be submitted to the Township Zoning Administrator with all required fees.

14.7.2. Effect of Approval. Approval of an open space community proposal shall not require, nor shall it be construed as an amendment to the Zoning Ordinance. All improvements and uses of the site shall be in conformity with the approved open space community site plan and comply fully with any conditions.

14.7.3. Recording of Action. The applicant shall record an affidavit with the register of deeds containing the full legal description of the project site, specifying the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved open space community plan unless an amendment is adopted by the Township. In addition, all deed restrictions and easements shall be duly filed with the register of deeds of the County and copies of recorded documents presented to the Township.

14.7.4. Land Use Permit. Following final approval of the open space community site plan and final approval of the engineering plans by the Township Engineer, a land use permit may be obtained. It shall be the responsibility of the applicant to obtain all other applicable Township, County, State or Federal permits.

14.7.5. Initiation of Construction. If construction has not commenced within twenty-four (24) months of final approval, all Township approvals become null and void. The applicant may apply in writing to the Planning Commission for an extension, not to exceed twelve (12) months. A maximum of two (2) extensions may be allowed.

14.7.6. Continuing Adherence to Plan. Any property owner who fails maintain an approved site design shall be deemed in violation of the use provisions of the Zoning Ordinance and shall be subject to the penalties for same.

14.7.7. Performance Guarantee. The Planning Commission may require that a performance guarantee, in accordance with the Section 5.3. of the Zoning Ordinance, be deposited with the Township to insure completion of improvements.

Section 14.8. Scheduled Phasing

14.8.1. Scheduled Phasing. When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the open space community and the residents of the surrounding area.

14.8.2. Timing of Phases. Each phase of the project shall be commenced within twenty-four (24) months of the schedule set forth on the approved site plan. If construction of any phase
is not commenced within the approved time period, approval of the plan shall become null and void, subject to the requirements of Section 14.7.5.

Section 14.9. Revision of Approved Plans

14.9.1. Minor Changes

A. Minor changes to an approved open space community plan may be permitted by the Planning Commission following normal site plan review procedures outlined in Article 4.00. for the following:

1. Reduction in density;
2. Changing non-single family dwelling units to single family dwelling units;
3. Realignment of roads;
4. Modifications to setbacks;
5. Increasing the amount of open space;
6. Changes to landscaping, provided the number of plantings is not decreased;
7. Change in the size of detention ponds by no more than 10%;
8. Changes to phasing plan; and
9. Other minor changes similar to the above, as determined by the Planning Commission.

B. Minor changes shall be subject to the finding of all of the following:

1. Such changes will not adversely affect the initial basis for granting approval;
2. Such minor changes will not adversely affect the overall open space community in light of the intent and purpose of such development as set forth in this Article; and
3. Such changes shall not result in the reduction of open space area as required herein.

14.9.2. Major Revisions. Approved plans for an Open Space Community that do not qualify as minor under Section 14.9.1 may be revised by resubmitting a final Open Space Community site plan for approval following the procedures of this Article.