

**TOWNSHIP OF CHIKAMING
BERRIEN COUNTY, MICHIGAN**

ORDINANCE NO. 123
Adopted: March 9, 2006

AN ORDINANCE TO AMEND ORDINANCE NO. 87 OF CHIKAMING TOWNSHIP ENTITLED: AN ORDINANCE TO ESTABLISH COMPREHENSIVE ZONING REGULATIONS FOR THE TOWNSHIP OF CHIKAMING, PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF THE TOWNSHIP RURAL ZONING ACT, ACT 184 OF THE PUBLIC ACTS OF 1943, AS AMENDED, BY ACT 637, OF THE PUBLIC ACTS OF 1978, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH AND TO PROVIDE PENALTIES FOR VIOLATIONS HEREOF.

THE TOWNSHIP OF CHIKAMING, BERRIEN COUNTY, MICHIGAN ORDAINS:

Section 1.

ARTICLE 2, DEFINITIONS, Section 2.14 ("L"), Lot, is hereby amended to read as follows:

Lot: -- A parcel of land, excluding those areas within private and public road rights-of-way, consisting of one (1) or more lots of record occupied or intended to be occupied by a principal building or use and any structures. The word "lot" includes the words plot, parcel, and that portion of a condominium project designed and intended for separate ownership and/or exclusive use, as described in the Master Deed, and includes a condominium unit or the condominium unit and contiguous limited common element surrounding a unit that is or shall be assigned to the owner of the unit for the owner's exclusive use.

ARTICLE 2, DEFINITIONS, Section 2.14 ("L"), is hereby amended by the addition thereto of the following:

Lot Area, Gross: -- The total area of land contained within the boundaries of a lot.

Lot Area, Net: -- The portion of the gross lot area excluding private and public road right-of-ways and area of any ponds, lakes or permanently submerged lands in excess of one (1) acre in size.

Section 2.

ARTICLE 20 - PLANNED UNIT DEVELOPMENT, is hereby amended to read as follows:

**ARTICLE 20
PLANNED UNIT DEVELOPMENT**

Section 20.01 Intent.

A. The intent of this Article is to provide a degree of flexibility in regard to the use, area, height, bulk, and placement regulations for developments which qualify as Planned Unit Developments. These may include, but are not limited to residential developments; shopping centers; industrial, office and business park developments; and medical or educational campuses. Qualifying developments may be of such size and configuration as to justify a controlled degree of flexibility, and to permit a mix of land uses that may not normally be permitted in the zoning district, but would, under specific circumstances, increase

convenience, be compatible with the overall character of the district, and not be injurious to adjoining properties. This shall result in a high level of quality and compatibility, shall minimize the damage to sensitive environmental features, and shall comply with the goals and objectives of the Township Master Plan.

B. The PUD regulations provided by this Article are intended to:

1. Provide a more desirable environment by preserving open fields, woodlands, wetlands, areas of steep topography, creeks, ponds and similar natural assets;
2. Encourage a creative approach to development design in the Township;
3. Encourage an efficient, aesthetic and desirable use of open areas and a reduction in development costs by allowing the developer to avoid and preserve natural obstacles on the site;
4. Encourage open space and recreational facilities within and around new development;
5. Promote the goals of the Township's Master Land Use Plan by preserving the rural character of the Township, establishing a landscaped corridor along the Township's public roadway frontages, maintaining the traffic carrying capacity of the Township's major roadways, and protecting environmentally-sensitive areas;
6. Provide the Township with a higher degree of control over the use of land and structures and design details of development in locations where application of traditional zoning requirements may not be appropriate; and
7. Provide the opportunity for inclusion in a single, unified development plan of associated or ancillary uses which are related to or supportive of the principal use.

C. The provisions of this Article are not intended to be used solely to avoid the otherwise applicable requirements of this Ordinance, including the provisions of the zoning district of the subject property.

Section 20.02 Eligibility for PUD Status: Qualifying Conditions.

A. To be eligible for consideration under the PUD provisions of this Article, all of the following conditions must exist with regard to the proposed PUD site and Plan:

1. The PUD site must be located within an area zoned AG, R-1, R-2, R-3, C or M. Planned unit development is not permitted within the R-4, F or RE zoning districts.
2. The PUD site must constitute a land area of at least 5 acres.
3. In addition, the proposed PUD must meet one or more of the following preconditions:
 - a. Sites determined to be appropriate for redevelopment, including sites with buildings that are functionally obsolete or historically significant, and sites where achieving economically sound development under a conventional zoning approach would be extremely difficult.
 - b. Sites where flexibility is necessary because of site constraints, including but not limited to sensitive environmental features, incompatible adjoining land uses, or traffic conditions that affect ease of access.
 - c. Sites where the flexibility of the PUD regulations is necessary to achieve a reasonable and desirable transition between land uses, without affecting the overall Township land use pattern, intensity of development or objectives of the Master Plan or any sub-area or corridor plans.
 - d. Sites where the public health, safety and welfare is better served through creation of a planned unit development, because of the density of population, adequacy of schools,

parks, or other public facilities, traffic volumes or circulation, neighborhood compatibility, adequate provision of light or air, or accessibility for fire and police protection.

e. Sites where the proposed development is compatible with the objectives of the Township Master Plan.

B. The PUD shall not be approved if any of the following conditions are determined to exist on the proposed development:

1. The PUD is used for the sole purpose of increasing the density or intensity of development, or avoiding the requirements for dimensional variances.
2. The PUD is used in situations where the same land use objectives can be accomplished by the application of conventional zoning provisions or standards.
3. The PUD adds public service or facility loads beyond those contemplated in the Master Plan or other adopted policies or plans, except where the applicant provides a means of securing public improvements needed to serve the development, and demonstrates to the satisfaction of the Township Board that such added loads will be accommodated or mitigated by the PUD.

C. If the PUD site is intended to contain any residential use other than detached single family dwellings, it must be served by public water and sanitary sewer service.

D. The PUD site must abut or have direct access to a public street.

E. The proposed development shall either: (1) be under single ownership or control such that there is a single person or entity having responsibility for assuring completion of the project in conformity with this Ordinance, or (2) if there is more than one owner or entity with an interest in the project, then there shall be a commitment in writing by each owner and/entity to work in unison to complete the project in complete conformity with this Ordinance.

The applicant(s) shall provide legal documentation of single ownership, single control, or joint unified control in the form of agreements, contracts, covenants, and deed restrictions which indicate that the development can be completed as shown on the plans, and further, that all portions of the development that are not to be maintained or operated at public expense will continue to be operated and maintained by the developments or their successors. These legal documents shall bind all development successors in title to any commitments made as a part of the documents. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is given to the Zoning Administrator.

Section 20.03 Permitted PUD Uses.

Subject to review and approval under the procedures and standards contained in this Article, the following uses may be permitted in a Planned Unit Development:

A. Uses permitted in a PUD shall be based on the uses permitted in the underlying zoning district, unless otherwise specified in this Ordinance.

B. Mixed-Use Component. A Planned Unit Development may incorporate a mix of land uses, provided that it is developed and approved in conjunction with the standards provided below in addition to the others contained in this Article:

1. The development shall be located on a lot of sufficient size to contain all structures, parking, and landscape buffering required for the most intense development proposed for the site.
2. The amount of land required for the total project area and the degree to which the land uses may be mixed is dependent upon the zoning district. The following table describes the standards.

District	Minimum Gross Area for Mixed Use Development	Percent Non-Residential
AG	50 acres	Max. 10%
R-1	20 acres	Max. 30%
R-2	50 acres	Max. 10%
R-3	20 acres	Max. 30%
C	5 acres	Min. 50%
M	5 acres	Min. 80%

3. All uses shall be compatible with the surrounding area.
4. The Planning Commission finds that the architectural design of the structures is compatible with the balance of the development.
5. All structures are connected to a pedestrian access system servicing the rest of the development.
6. Vehicular access is available only from an access drive to the PUD that connects directly with a County Primary Road.
7. If a proposed project cannot provide direct access to a County Primary Road, the Planning Commission may approve a non-residential land use component for a PUD project located on any paved County thoroughfare, subject to 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.
8. All parking and loading areas serving the non-residential 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.
9. The following uses shall be permitted commercial uses in residential zoning districts within a PUD and shall be recorded with a deed restriction on the property:
 - a. Food and beverage stores for the sale of: groceries, fruit, meat, baked goods, dairy products, beverages and liquor.
 - b. Personal service establishments such as barber shops, beauty salons, laundry pick-up, and similar uses.
 - c. Child care or day care centers.
 - d. 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) such a use is consistent with the intent of this Article and (b) provides no significant negative impact on the PUD project or other surrounding land uses.
10. The following uses shall be permitted residential uses in commercial or industrial zoning districts within a PUD and shall be recorded with a deed restriction on the property:
 - a. Single-family dwellings.

- b. Two-family and multiple-family dwellings, provided they are served by municipal water and sanitary sewer services.

Section 20.04 Development Standards

A. The purpose of this Section is to ensure that planned unit developments in all zoning districts are compatible with the surrounding area and Township. Wherever possible, the provisions of the underlying zoning district(s) and the design standards of this Ordinance shall be followed in the design of Planned Unit Developments. Modifications to these standards may be approved as part of a Preliminary PUD Plan in any zoning district, provided that such modifications are determined to be consistent with the purpose of this Article and the following:

1. For PUD's located in the AG, R-1, R-2 or R-3 zoning districts, and for residential PUD's located in any other zoning district, minimum lot size, minimum distance between buildings, and maximum lot coverage shall be as follows:

STANDARD	ZONING DISTRICT				
	AG	R-1	R-2	R-3	C or M
Minimum Lot Size in Acres (ac.) or Square Feet (s.f.)	1 ac.	12,000 s.f.	12,000 s.f.	Single-family lot: 12,000 s.f. Multiple-family lot 5 ac.	5 ac.
Minimum Distance Between Buildings	20 feet	20 feet	20 feet	20 feet	20 feet
Maximum Lot Coverage	20%	30%	20%	Single Family/Two Family: 30% Multiple Family: 40%	40%

2. In areas designated in Community Centers as the Township's Future Land Use Map, the following shall apply:

- a. The maximum lot coverage shall be 60%.
- b. The minimum distance between buildings shall be 0 feet, except for detached single family residences, which shall be provided with a minimum 20 foot separation from all other structures in designated Community Center areas.

3. For non-residential PUD's located in the C or M zoning districts, the minimum distance between buildings shall be as provided by the Michigan Building Code.

B. Density.

The permitted density in the Planned Unit Development shall be based on the net buildable area of the site, as defined in Article II of the Township Zoning Ordinance.

To assist the Planning Commission in determining the net buildable area, the applicant shall submit a parallel plan for the development that is consistent with the requirements for a site plan in Chapter 21. The parallel plan should show how the site could be developed under conventional zoning and subdivision standards. The parallel plan should be drawn to contain the maximum number of lots allowable per these standards in the underlying zoning district.

The Planning Commission shall review the parallel plan and determine the number of lots that could be feasibly constructed (based on site conditions, engineering, cost, and similar factors) following the design. This number, as determined by the Planning Commission, shall be the base number of dwelling units allowable for the Planned Unit Development project.

- C. There shall be no flexibility granted for the maximum building height. The maximum building height standard in the underlying zoning district shall govern.

D. The layout of roads shall generally provide a continuous circuit of travel or permit such an extension in the future. Where proposed land is limited by natural barriers or use of the land, a cul-de-sac design may be approved provided that an easement or right-of-way is reserved extending from the cul-de-sac to

the development boundary. If a road of an existing development terminates at the boundaries of the proposed development, the proposed road network shall connect. These requirements may be waived by the Township where natural barriers or other similar conditions exist that make such arrangements not feasible.

E. All utility lines within the development shall be underground.

F. Plans must satisfy the minimum parking requirements of Article 18 of this Ordinance. However, the Township may reduce the minimum parking requirements if it can be demonstrated that the needs of the uses in the development can be satisfied through shared parking, on street parking, or other similar means. If future expansion is anticipated or future parking needs are expected, parking areas may be banked. They should be shown on the site plan as banked parking areas, and left as open space until necessary for use.

G. Existing landscaping shall be preserved and /or improved when feasible or additional landscaping provided to ensure that proposed uses will be adequately buffered from one another and surrounding public and private property.

H. The proposed storm drainage plans shall be reviewed and approved by the County Drain Commissioner, and maintained as a Drain permanently. Proof of compliance shall be required prior to final plan approval.

Section 20.05 Common Open Space Requirements.

A. A minimum of 20% of the total area of the PUD project site shall be open space.

B. A minimum of 25% of the open space shall be usable, upland areas.

C. Open space areas set aside as part of a PUD development shall accomplish one or more of the following objectives:

1. To provide common recreational area for use by the residents of the PUD, in cases where the development is expected to create a significant demand for common recreational area, which demand will not otherwise be met by the PUD as proposed.
2. To protect and preserve environmentally sensitive areas, such as floodplains, shorelands, dunes, regulated and non-regulated wetlands, stream corridors, steeply-sloped areas, woodlands, or other sensitive areas which may exist on the development site and enhance the rural character of the area.
3. To provide open space buffer areas between the PUD and adjoining property so as to minimize adverse impacts of the PUD on adjoining property.
4. To provide open space along public road corridors so as to maintain a natural character along public roadways in rural portions of the Township, as encouraged in the Chikaming Township Master Land Use Plan.

D. Land dedicated as common open space is subject to the following requirements:

1. To the extent possible, open space areas shall be continuous throughout the development. Open space shall be large enough and of proper dimensions so as to contribute significantly to the purpose and objectives of the development.
2. Land devoted to public or private street easements, rights-of-way or parking, and above-ground portion of a private community on-site waste water disposal system, or land within the boundaries of a lot or unit shall not be included in computing the area of common open space.
3. Access to common open space shall be provided from all areas of the PUD by means of public or private streets or pedestrian access ways.

4. Common open space areas should be accessible by pedestrians and non-motorized vehicles from all dwelling units by means of public or private streets, or by pedestrian access ways in easements that have a minimum width of twenty (20) feet and an improved surface meeting specifications as approved by the Planning Commission or Township Board.

E. As a condition of Final PUD approval, and prior to the occupancy of any structure within the PUD (or within any phase of the PUD), the applicant shall be required to establish a property owners' association (or other similar organization acceptable to the Township) of which all residents or occupants of the PUD shall be required to become members through appropriate plat restrictions, covenants, and conditions. The property owners' association must be legally capable of assuming, and shall assume, the obligation to maintain the common open space as required by this Section.

Section 20.06 PUD Application, Review and Approval Procedure.

The procedures in this Section shall be followed when applying for PUD approval as provided for by this Article.

A. Pre-Application Conference.

Prior to the submission of an application for PUD approval, the applicant may meet with the Planning Commission for the purpose of preliminary discussion and review regarding the eligibility for consideration, appropriateness, general content and design approach of a proposed PUD. An applicant desiring a pre-application conference must submit to the Zoning Administrator a written request that the conference be placed on the Planning Commission's agenda. The request must be submitted at least 14 days prior to the Planning Commission meeting at which the conference is to take place.

The applicant shall present at such conference or conferences, at minimum, a sketch plan of the proposed Planned Unit Development, plus a legal description of the property; the total number of acres in the project; a statement regarding the proposed uses, the number of acres for each use, and the number of residential units proposed; the number of acres to be preserved or used for recreation space; all known natural resources or features to exist on the site as well as those being preserved; and the existing conditions on the site. If multiple meetings are desired, a fee, established by the Township Board, shall be charged for each meeting after the first.

No formal action shall be taken at a pre-application conference. Statements made by any person during the course of a pre-application conference shall not be deemed to constitute legally binding commitments.

B. Preliminary PUD Review.

Preliminary PUD review is the first step of the two-step PUD approval process. It is an opportunity for the Township to review the plans and make sure they satisfy the standards and intent of the Zoning Ordinance prior to further development of the PUD plans and investment in the project.

1. Preliminary PUD Application.

An application for Preliminary PUD approval requires submission of 10 copies of the following items to the Zoning Administrator, not less than 14 days prior to the Planning Commission meeting at which the request will first be considered:

- a. Application fee in the amount established by resolution of the Township Board.
- b. A completed application form as supplied by the Township. The application form must be signed by the applicant, and by the owners of all of the land to be included within the PUD (if different than the applicant).
- c. A Preliminary Site Plan, containing all information as specified in Article 21, encompassing all phases of the proposed PUD.

d. A parallel Plan, containing all the information specified in Article 21, as described in Section 20.04B above.

e. A thorough, written narrative responding to the following:

- (1). The items listed in Section 21.03.,C.1.C.
- (2). The reasons why the proposed project qualifies as a PUD
- (3). The reasons why PUD is preferred at this location
- (4). The possible impacts of the proposed development on adjacent properties
- (5). The potential benefits of the development to Chikaming Township
- (6) A description and rationale for modifications to Zoning Ordinance standards

f. Legal documentation that the proposed site is under single ownership, single control, or joint unified control in the form of agreements, contracts, covenants, and deed restrictions.

g. An impact statement, consistent with the requirements in Article 21, may be required by the Planning Commission.

The Planning Commission may waive any of the application requirements provided above (except for the application fee), if the Commission determines that the requirement to be waived is not applicable to the PUD under consideration or is otherwise unnecessary to meet the intent and purposes of this Article.

2. Public Hearing; Review and Action by Planning Commission; Conditions of Approval.

a. Upon receipt of a completed application for Preliminary PUD review, the Zoning Administrator shall schedule a public hearing on the Plan, and provide copies of all application materials received to members of the Planning Commission. Notice of the public hearing shall be provided as required by this Ordinance for public hearings on special land use permit requests.

b. Immediately following the public hearing, or within a reasonable time thereafter, the Planning Commission shall recommend to the Township Board that the Preliminary PUD be approved, approved with conditions, or disapproved. The Planning Commission may recommend approval of the request only if the proposed PUD meets all of the standards for PUD approval contained in this Article. The minutes of the Planning Commission decision shall state its conclusions regarding the application, the basis for its recommendations, and any conditions imposed in connection with a recommendation to approve the request.

c. The Planning Commission shall provide the applicant with a copy of the Commission's report and recommendation regarding the request for PUD approval.

3. Review of Preliminary PUD Plan by Township Board: Effect of Approval.

a. After receipt and review of the Planning Commission report and recommendation, the Township Board shall approve, approve with conditions, or disapprove the Preliminary PUD, provided that the request may be approved only if the PUD meets all of the standards for PUD approval contained in this Article.

b. Reasonable conditions may be imposed by the Township Board in conjunction with a Preliminary PUD approval, subject to the same limitations as specified in this Article for conditions imposed on a Final PUD approval.

c. The Township Board shall prepare a written report stating its conclusions regarding the Preliminary PUD, the basis for its decision, the decision, and any conditions relating to an affirmative decision.

d. Approval by the Township Board of the Preliminary PUD shall confer upon the applicant for a period of 1 year the right to submit a Final PUD Plan for the PUD (or for any phase of the PUD, as identified on the Preliminary PUD Plan) for review and approval by the Planning Commission.

(1) If a Final PUD Plan is not submitted within the 1 year period, the preliminary PUD Plan approval shall lapse. However, the Planning Commission may extend the time for submission of the Final PUD Plan for 1 year if the applicant requests an extension prior to the expiration of the initial period. Only 1 such extension may be granted.

(2) If the PUD is proposed for construction in phases, a Final PUD Plan for at least the first phase of the construction shall be submitted within the time limitations contained in this Section. Final plans for subsequent phases shall be submitted within a 6 year period starting with the approval of the preliminary plan.

(3) If a Preliminary PUD approval lapses due to failure of the applicant to submit a Final PUD application within the time limitations contained in this Section, a new Preliminary PUD application must be submitted for review by the Planning Commission in conformity with the then existing provisions of this Ordinance.

e. Approval of a Preliminary PUD Plan does not guarantee approval of a Final PUD Plan.

C. Final PUD Review.

1. Final PUD Application.

Application for Final PUD approval may be requested for an entire PUD, or for one or more sequential phases of the PUD if the phases conform to the provisions for phased development contained in the Preliminary PUD approval. Application for Final PUD approval shall be made by submittal of 10 copies of the following items to the Zoning Administrator not less than 14 days prior to the Planning Commission meeting at which the request will first be considered:

a. A completed application form as supplied by the Township. The application form must be signed by the applicant, and by all of the owners of the land to be included within the PUD, if different than the applicant.

b. Application fee as established by resolution of the Township Board.

c. A final site plan containing all of the information required by Article 21 of this Ordinance.

d. Typical elevation sketches, with identification of facade materials, of all sides of each principal building type included in the PUD, drawn at a scale of 1 inch = 8 feet.

e. Summary data schedules containing the following:

(1) Total gross site area.

(2) Area of existing or proposed rights-of-way.

(3) Area and percentage of site covered by buildings.

(4) Area and percentage of site covered by pavement.

(5) Area and percentage of total open space.

(6) For residential development, number, sizes and bedroom mix of proposed dwelling units.

(7) For commercial development, total floor area for each category of commercial use.

f. Proof of compliance with reviews and approvals from required external agencies such as Berrien County Road Commission, Berrien County Drain Commissioner, DEQ, and Berrien County Health Department, supplied by his or her agent.

g. Statement indicating compliance with preliminary PUD plan and any conditions of approval.

h. A draft Planned Unit Development Agreement, setting forth the terms and conditions negotiated and to be agreed to by the applicant and the Township, and upon which approval of the Planned Unit Development proposal will be based. The Planned Unit Development Agreement shall, at minimum, include the following:

- (1) A description of the land that is subject to the agreement.
- (2) A description of the permitted uses of the property, the density or intensity of use, and the maximum height and size of proposed buildings.
- (3) History of the review procedures and action taken by the Planning Commission or Township Board.
- (4) List of all plans, documents, and other materials submitted by the applicant.
- (5) Review and explanation of all special provisions agreed to by the applicant and Township in conjunction with the proposed Planned Unit Development project.
- (6) An explanation of all public improvements to be undertaken by the applicant or the Township in conjunction with the proposed Planned Unit Development project.
- (7) Description of any required dedications and permits.
- (8) Confirmation that the proposed development is consistent with applicable Township ordinances and planning objectives.
- (9) Duration of the Planned Unit Development Agreement, along with terms under which a termination date may be extended by mutual agreement.
- (10) Applicability of future amendments to the general zoning regulations to land that is subject to the proposed Planned Unit Development Agreement.
- (11) Extent to which the Planned Unit Development Plan may be modified subject to administrative approval, Planning Commission approval, or Township Board approval.

i. The Planning Commission may waive any of the application requirements provided above (except for the application fee), if the Commission determines that the requirement to be waived is not applicable to the PUD under consideration or is otherwise unnecessary to meet the intent and purposes of this Article.

2. Review of Final PUD Application by Planning Commission.

a. The Planning Commission shall review the Final PUD application, and shall approve, approve with conditions or disapprove it.

b. The Final PUD Plan may be approved only if:

- (1) The PUD as proposed meets all of the standards for approval as provided in this Article.
- (2) The PUD as proposed is consistent with the intent of the Township Master Plan.
- (3) The Final PUD Plan is consistent in all significant respects with the Preliminary PUD Plan as approved by the Township Board, including any conditions imposed by the Board

on the Preliminary PUD Plan approval. Specifically, changes in any of the following features of the PUD shall require submittal of a revised Preliminary PUD Plan for review by the Planning Commission and the Township Board as provided by this Article:

- (a) Addition of uses different from those included in the Preliminary PUD Plan.
- (b) Increases in the size, height or number of buildings.
- (c) For residential development, any increase in number of dwelling units.
- (d) Any other change deemed by the Planning Commission to be substantially inconsistent with the previously approved Preliminary PUD Plan.

c. Reasonable conditions may be imposed by the Planning Commission in conjunction with a Final PUD approval, for the purpose of:

- (1) Ensuring that public services and facilities affected by the PUD will be capable of accommodating increased services and facility loads caused by the PUD;
- (2) Protecting the natural environment and conserving natural resources and energy;
- (3) Ensuring compatibility with adjacent uses of land; and
- (4) Promoting the use of land in a socially and economically desirable manner.

d. Any conditions imposed shall also meet all of the following requirements:

- (1) Be designed to protect natural resources and the public health, safety and welfare of individuals in the project and those immediately adjacent, and the community as a whole;
- (2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity; and
- (3) Be necessary to meet the intent and purpose of this Ordinance, and be related to the objective of ensuring compliance with the standards of this Ordinance.

e. Performance guarantees to assure compliance with an approved Final PUD Plan and conditions of Final PUD approval may be recommended by the Planning Commission and/or required by the Township Board as authorized under Section 16.f of the Zoning Enabling Act. The performance guarantee may consist of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond, in a form acceptable to the Township, covering the estimated costs of improvements associated with the PUD. The performance guarantee shall be deposited with the Township Clerk at the time of issuance of the permit authorizing the improvement activity or project. If requested by the depositor, the Township shall rebate a proportional share of any cash deposit, based on the percentage of work completed on the date of the request for the rebate, as attested to by the depositor and verified by the Zoning Administrator.

f. The Planning Commission shall prepare a written report stating its conclusions on the request for approval, the basis for its decision, and any conditions relating to an affirmative decision.

Section 20.07 Standards for PUD Approval.

Approval of a Preliminary PUD or Final PUD shall only be granted by the Planning Commission or Township Board if the PUD Plan complies with all of the following standards:

- A. Satisfies the standards of this article.
- B. Satisfies the standards of the Zoning Ordinance unless specifically noted modifications have been granted.
- C. Satisfies the goals and objectives of the Master Plan.

- D. Does not adversely affect adjacent property areas.
- E. Does not result in a significant increase in demand for public services or facilities.
- F. Protects the natural environment better than conventional development could have at the same location.
- G. Results in recognizable and substantial benefits to residents of the site, surrounding property, and township, particularly when compared to the potential benefits of conventional zoning at the site.

Section 20.08 Effect of Final PUD Approval.

- A. Following Final PUD approval, no construction shall be undertaken on the land included within the PUD except in conformity with the Final PUD Plan and any conditions imposed in connection with the Final PUD approval.
- B. Upon approval of the Final PUD, the Planned Unit Development Agreement shall be reviewed by the Township Attorney. When in final form, the agreement shall be executed by the Township and the applicant and recorded at the Berrien County Register of Deeds, at which time approval of the Final PUD will take effect.
- C. Prior to granting any permits for construction within the development as-built drawings and copies of the recorded PUD agreement and other documents will be required to be submitted to the Township

Section 20.09 Changes to Approved PUD.

- A. An approved Final PUD Plan and any conditions imposed upon Final PUD approval shall not be changed except upon the mutual consent of the Planning Commission and the applicant.
- B. Except for changes determined to be minor changes as provided by paragraph C, changes to an approved Final PUD Plan or to any conditions imposed on Final PUD approval shall be reviewed and approved, approved with conditions, or denied by the Planning Commission pursuant to the procedures provided by this Article for an original request Final PUD approval.
- C. Minor changes to a Final PUD Plan may be approved by the Zoning Administrator, without review by the Planning Commission, subject to the following limitations:
 - 1. For residential buildings, the size of structures may be reduced by 5 percent or increased by 5 percent, provided that there shall be no increase in the number of dwelling units.
 - 2. Gross floor area of non-residential buildings may be reduced by 5 percent or increased by 5 percent, or no greater than 5,000 square feet, whichever is less.
 - 3. Floor plans may be revised, if consistent with the character of the use.
 - 4. Horizontal and vertical elevations may be altered up to 5 percent.
 - 5. Building footprints may be relocated by up to 5 feet, unless a specific setback or separation distance is imposed as a condition of approval.
 - 6. Areas designated as "not to be disturbed" may be increased in area.
 - 7. Plant materials included in the Final PUD Plan may be substituted by similar types of landscaping on a 1-to-1 or greater basis.
 - 8. Improvements to access and circulation systems may be made, such as addition of acceleration/deceleration lanes, boulevards, curbing, pedestrian/bicycle paths.

9. Changes in exterior materials may be made, provided that any changes are for the use of materials of equal or higher quality than those originally approved, as determined by the Zoning Administrator.

10. Signs may be reduced in size, and sign setbacks may be increased.

11. Parking spaces in a parking lot may be internally rearranged, if the total number of parking spaces provided is not reduced and circulation hazards or congestion are not created by the redesign.

D. The Zoning Administrator may refer a decision regarding any proposed change to a Final PUD Plan (including any change which is a minor change under Section 20.08(b)) to the Planning Commission for review and approval by the Commission.

Section 20.10 Commencement of PUD Construction.

A. Construction shall be commenced and shall be proceeding meaningfully toward completion within 1 year from the date of Final PUD approval for all or any phase of a PUD. Construction of each phase of a multi-phased PUD shall be commenced within 1 year of the schedule established for the phase as approved for the PUD.

B. If construction is not commenced within the applicable 1 year period, approval of the Final PUD Plan shall lapse. However, the Planning Commission may extend the time for commencement of construction for 1 year if the applicant requests an extension prior to the expiration of the 1 year period. Only one such extension may be granted. The applicant must demonstrate to the satisfaction of the Commission that the extension is justified either:

1. Because the delay is due to unforeseen difficulties beyond the reasonable control of the applicant, and there remains a likelihood of proceeding to completion with the PUD; or
2. Upon other good cause shown by the applicant.

C. If the Zoning Administrator determines that construction has not commenced or is not proceeding meaningfully toward completion within the required time period as provided by this Section, the Zoning Administrator shall provide written notice of that failure to the applicant (and to the owners of the land located within the PUD, if different than the applicant) at least 14 days prior to the expiration of the applicable required time period.

D. If Final PUD approval lapses as provided by this Section due to a failure to commence construction and proceed meaningfully toward completion within time periods provided by this Section, a new application for Final PUD approval must be submitted for review by the Planning Commission under the then applicable provisions of this Ordinance.

Section 3.

ARTICLE 20-A, OPEN SPACE PRESERVATION DEVELOPMENT, is hereby added to said Zoning Ordinance and reads as follows:

ARTICLE 20-A OPEN SPACE PRESERVATION DEVELOPMENT

Section 20-A.01. Intent

This article contains standards and procedures for review and approval of "Open Space Preservation Developments" that meet the criteria for open space preservation development design set forth in Sec. 16h.(1)(a)-(d) of the Township Zoning Act, P.A. 184 of 1943, as amended by P.A. 177 of 2001. The purpose of these standards and procedures is to:

- A. Encourage the use of Township land in accordance with its character and adaptability and the goals and objectives of the Township Master Plan;
- B. Assure the permanent protection of open space, agricultural lands, and natural resources from development pressures;
- C. Encourage development designs that preserve traditional southwest Michigan rural, countryside views along major road corridors;
- D. Provide passive recreational facilities within a reasonable distance of all residents of the Open Space Community development;
- E. Allow innovation and greater flexibility in the design of residential developments;
- F. Facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner that is less damaging to the environment;
- G. Ensure compatibility of design and use between neighboring properties;
- H. Encourage a less sprawling form of development, thus preserving open space as undeveloped land;
- I. Connect open space areas on adjacent developments to create a network of green space and habitat area throughout the community, and where appropriate provide paths, trails, or greenways between these areas; and
- J. To encourage the use of this tool consistent with the purpose and intent of this Ordinance.

These regulations are intended to result in creative development in a manner that reflects the rural character of the community and protects the natural features of the surrounding area through the creation of open space areas and the clustering of development areas within a project site. 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.

Section 20-A.02 Scope and Applicability

For the purposes of this Article, an "Open Space Preservation Development" is defined as a predominantly residential development in which dwelling units are placed together into one or more groupings within a defined project area without increasing the overall project density unless granted a bonus per the standards below. The dwellings are clustered together, and the development includes substantial open space that is perpetually protected from development. A minimum of fifty percent (50%) of the land area shall remain perpetually in an undeveloped state as open space on the property.

Section 20-A.03 By Right Eligibility

Open Space Preservation Development is permitted by right in the zoning districts identified in Section VI.A below. A proposed Open Space Preservation Development shall be required to satisfy those development standards that would be applied to a conventional development in the same district, except that a parallel plan (Section V.A) shall be required in order to determine the number of lots or units permitted to be developed on the subject property. A By Right Open Space Preservation Development shall satisfy the requirements of Section 16h.(1).(a)-(d) of the Township Zoning Act, including provision of a guarantee of protection of the open space by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land. A By Right Open Space Preservation Development completed according to these provisions, however, will not be eligible for any density bonus provided in this article.

Section 20-A.04 Density Bonus Eligibility

To be eligible for consideration for a density bonus as an Open Space Preservation Development, the applicant must present a proposed development plan that meets each of the following:

A. Recognizable and Substantive Benefits

An Open Space Preservation Development shall result in recognizable and substantive benefits to the ultimate users of the project and the community, and shall result in a higher quality of development than could be achieved under conventional zoning. Such benefits can be provided through site design elements in excess of the requirements of this Ordinance, such as the following:

Extensive Traditional Landscaping. Maintaining existing landscaping on site to the extent feasible, particularly along primary roads and in common areas as well as enhancing existing landscaping with species native to Berrien County beyond the requirements of the Zoning Ordinance, resulting in quality development satisfying the intent of this Ordinance.

Transition Areas from Residential Development. Providing buffers – distance and landscaping – between areas of potentially incompatible uses, whether located within a proposed development or between a proposed development and an adjacent property.

Unique Site Design Features. Creating a development plan or site layout that exhibits creativity, demonstrates a conscious effort to protect significant natural features and other unique elements on the site (including historic or unique structures, view sheds, or community facilities), or provides other unanticipated and distinctive features in keeping with the tradition and character of Chikaming Township and are of high quality and value to the community.

Unified Access. Limiting access from individual parcels and lots within the development to internal roads only; following other adopted access management standards; and providing for a continuous circulation system both within the development and with adjacent properties where development has occurred or is possible in the future (either through stub roads or through easements).

Preservation of Significant Natural Areas. Strategic location of development areas within the project site to protect significant natural areas (identified in Section B.1 below).

Buffering of Development from Lakes, Rivers, Streams, Wetlands, and Major Thoroughfares. Providing areas of existing natural space to buffer proposed development from natural features as well as major thoroughfares (I-94).

B. Open Space

The proposed development shall be designed to maintain and/or enhance open space areas within the project site. These areas may include the following:

1. The site plan shall preserve significant natural assets in the required open space area, to the extent required. Removal or destruction of such assets for development shall be minimized. Significant natural assets include the following:

Woodlands – trees and other plants in a densely wooded area

Landmark trees – individual trees over 12 inch diameter measured at chest height (four feet above the ground)

Steep slopes – topography exceeding 15% slope

Rural view sheds

Natural drainage ways or County drains

Surface water – lakes, ponds, rivers, and streams

Flood plains

Regulated and non-regulated wetlands

Natural wildlife habitat corridors (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 Preservation Development Plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.)

2. Recreation Facilities. Additional enhancements in the open space areas may be provided to encourage use of and connection to the natural areas. Such facilities are subject to the standards provided for in this Ordinance and include primarily passive recreational uses. These include trails, picnic areas, children's play areas, and greenways. This does not include a golf course.

C. Impact of Density

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 to the subject, surrounding land, 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 Preservation Development Plan. 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 Comparative Impact Assessment, a quantitative comparison of the impacts of conventional development and the open space community plan to assist in making this determination. (This may include 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.

D. Compliance with Township Master Plan

The proposed development shall be consistent with and further the implementation of the Township Master Plan.

Section 20-A.05 Project Density

A. Parallel Plan

The permitted density in the Open Space Development shall be based on the net buildable area of the site, as defined in Article II of the Township Zoning Ordinance.

To assist the Planning Commission in determining the net buildable area, the applicant shall submit a parallel plan for the development that is consistent with the requirements for a site plan in Chapter 21. The parallel plan should show how the site could be developed under conventional zoning, land division, subdivision, and/or site condominium regulations. The parallel plan should be drawn to contain the maximum number of lots allowable per these standards in the underlying zoning district without any bonuses or provisions of the Open Space Preservation Development Plan.

The Planning Commission shall review the parallel plan and determine the number of lots that could be feasibly constructed (based on site conditions, engineering, cost, and similar factors) following the design. This number, as determined by the Planning Commission, shall be the base number of dwelling units allowable for the Open Space Preservation Development project. Density bonuses may be applied to this base value by the Planning Commission per the standards of Section V, B and C below, if the development is eligible.

B. Density Bonus

The Planning Commission may grant a density bonus to Open Space Preservation Developments that satisfy the eligibility requirements of Section IV above. In these cases, the base number of lots in an Open Space Preservation Development may be increased by the following percentages, resulting in the following overall densities for the entire project site:

Zoning District	Percent Density Bonus	Permitted Density Under Conventional Zoning	Permitted Density With Open Space Bonus
AG	25%	1:10 Acres	1:8 Acres
R-1	15%	1:20,000 Square Feet	1:17,391 Square feet
R-2	20%	1:1.5 Acres	1:1.25 Acres
R-3	15%	1:20,000 Square Feet	1:17,391 Square Feet

C. Bonus for Exemplary Project

The Planning Commission may allow an additional density bonus for exemplary Open Space Preservation Developments that 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 Preservation Development eligibility under Section III.

An additional variable density bonus 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. Projects qualifying for an additional density bonus shall include at least one of the elements identified below. Each element is worth an additional percentage density bonus as indicated for each district below. However, the maximum additional density bonus for an exemplary project shall be fifteen percent (15%) in the R-1 and R-3 districts and twenty-five percent (25%) in the AG and R-2 districts.

1. A high level of clustered development where a minimum of sixty percent (60%) of the gross land area of the Open Space Preservation Development is protected open space. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
2. Inclusion of an integrated mixture of housing types and sizes, including units with a livable floor area of 1,500 square feet or less. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
3. Providing frontage transition areas along all public roads that are at least one hundred fifty (150) feet in depth with suitable landscaping. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
4. Providing public amenities such as trails for non-motorized use, children's playgrounds, picnic facilities, or community centers (not included in open space area). (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
5. Providing paths, trails, greenways, or other connectors between adjacent open space areas, accessible to the public, and connected to or creating a network of trails throughout the community. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
6. Cleanup of site contamination. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
7. Storm water management on site that relies upon natural systems to the greatest extent possible and preserves the quality and integrity of such systems. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
8. Use of porous paving materials to reduce impervious surfaces. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
9. Other similar elements as determined by the Planning Commission. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)

Section 20-A.06 Development Standards for Open Space Preservation Developments

A. Zoning Districts

An Open Space Preservation Development may be located in the Ag - Agricultural or R-2 - Residential Rural Estate Districts. If the property has access to public sewer, a proposed development may also be located in the R-1 - Single Family Residential District and the R-3 - Two-Family and Multiple-Family Residential District.

B. Permitted Uses

1. An Open Space Preservation Development is generally restricted to single family detached or single family attached residential dwellings consistent with the underlying zoning district.
2. Multiple Family Component. In an Open Space Preservation Development in the R-1 or R-3 districts, multiple-family residential uses may be permitted consistent with the standards for a multiple-family residential structure in the R-3 district unless otherwise modified through the Open Space Preservation Development process by the Planning Commission, considering the following minimum standards.
 - a. The Planning Commission may modify these standards based upon a determination that off-street parking will be adequate and that the modification will preserve natural features. Building setback requirements along the perimeter of the development shall not be reduced below the ordinance standard.
 - b. 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. 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 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.

C. Minimum Standards

1. 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.
2. Minimum setback standards may be modified if necessary based on reduced lot sizes and sound planning and design principals, taking into account the degree of compatibility between adjoining uses, sensitivity to characteristics of the site, the needs for free access for emergency vehicles, the need for adequate amounts of light and air between building, and the need for proper amounts of open space for the use of residents on the site.
3. Building and parking lot setback standards along the public road frontage of Open Space Preservation Developments shall be 50 feet.

D. Roads and Driveways

To the extent practicable, the arrangement of lots, access roads, and designated open space within an Open Space Preservation Development shall achieve the following objectives:

1. All lots shall be accessed through an interior network of public or private streets. Unless specifically waived by the Township and the Berrien County Road Commission, individual lots shall not be accessed directly from the pre-existing public road adjacent to the property.

2. Streets systems and lot layout should be designed so that their curvature or alignment produces unimpeded views of prominent open space elements. This may commonly occur at the terminus of street intersections or through use of a street alignment directly abutting open space.
3. The amount of site disruption caused by road and driveway construction and associated grading required for construction shall be minimized in Open Space Preservation Developments.
4. Roads shall follow existing contours to minimize the amount of cut and fill.
5. Where sites include linear features, such as tree lines and stone rows, roads shall follow these features to minimize the visual impact of the roads.
6. 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 tree shall be provided on each side for every fifty (50) feet of 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.

E. Utilities

1. All utility distribution lines and service lines to individual dwelling units, including telephone, electric and cable television lines, shall be placed underground.
2. If there is public water or sewer service available to the site on which an open space community development is proposed, the Planning Commission shall require connection into the system.

F. Lighting

Street lighting shall be permitted only if authorized in the Open Space Preservation Development Plan approved by the Township. The design and style of any street lighting shall be subject to the approval of the Township. Cut-off fixtures with little to no glare that do not brighten the night sky shall be selected if street lights are used in the development.

G. Stormwater Management

Existing natural drainage shall be maintained to the maximum extent feasible. Retention and detention basins, where proposed or required, shall resemble natural ponds with gradual slopes and shall be landscaped with plant material native to Berrien County that enhances the wildlife habitat.

H. Regulatory Flexibility

1. Upon showing that an alternative standard will result in a higher quality development or increased protection of open space / natural resources the Planning Commission may grant specific modifications from the requirements in the Zoning Ordinance as a part of the approved process for a particular development.
2. 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.
3. An appeal of an Open Space Preservation Development Plan decision shall not be heard by the Zoning Board of Appeals. Such an appeal shall be to the Circuit Court of Berrien County.
4. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the Open Space Preservation Development, provided such a variance does not involve alterations to open space areas as shown on the approved Open Space Preservation Development site plan.
5. 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 Preservation Development article. This specification should include Ordinance provisions, from which deviation is 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.

Section 20-A.07 Open Space Amount/Requirements

Open Space Preservation Developments shall provide and maintain open space in an Undeveloped State as defined in Article 2 of the Zoning Ordinance. The Planning Commission may determine that a public park or a public facility is appropriate and should be located in the open space areas of Open Space Preservation Developments. Open space provided in Open Space Preservation Developments shall comply with the following standards:

A. A minimum of fifty percent (50%) of the gross land area of an Open Space Preservation Development shall be designated as open space.

B. Open space shall be located on the parcel to meet the following objectives:

1. To protect and preserve distinct natural features, scenic or wooded conditions, and rural characteristics.
2. To allow for the continued use of agricultural lands within a residential environment in compliance with GAAMP Standards.
3. To protect viewsheds and provide visual and spatial separation between the developed property and adjoining property.
4. To provide Open Space along public road corridors.
5. To provide common recreational area for use by the residents of the development or the public.

C. The open space shall be strategically located on a lot adjacent to open space areas on contiguous developments or potential open space areas on undeveloped properties in order to establish continuous networks of important environmental resource systems including, but not limited to, wetlands, woodlands, stream and river corridors, and wildlife corridors and habitats.

D. In addition, no more than 40% of the required open space may be developed with children's play facilities, picnic facilities, and/or public parks, to satisfy the needs of future residents of the development, provided that all such facilities shall be compatible in design with other open space requirements and objectives and shall satisfy the definition standards for open space.

E. At least 25% of the open space must be in usable, upland areas.

F. To the extent possible, dedicated open space areas shall be continuous throughout the Open Space Preservation Development. Open space areas shall be large enough and of proper dimensions so as to contribute significantly to the purpose and objectives of the development.

G. Land with any of the following characteristics shall not be included in the calculation of the area of designated open space.

1. Land subject to public or private street easements or right-of-way.
2. Land used for any above ground portion of a private community on-site wastewater disposal system.
3. Land that is included within the boundaries of a lot in a subdivision plat, within the boundaries of a condominium unit, or within the boundary of a parcel intended to be a building site.
4. Land designated for parking of vehicles.

H. Unpaved trails and passive recreation space shall be permitted in open space areas.

I. The required open space shall be perpetually preserved in an undeveloped state and protected against uses or activities inconsistent with the intent of this article through use of a conservation easement held by the Township or a qualified land trust, a plat dedication, restrictive covenant, or other instrument of record that runs with the land. Such conveyance shall:

1. Be subject to approval of the Township Attorney.
2. Indicate the proposed use(s) of the required open space.
3. Provide for the privately owned open space to be maintained by the property owners' association or other association of private property owners having a shared ownership interest in the open space.
4. The applicant(s) for the proposed development shall provide the Township with a recordable maintenance or restrictive covenant agreement between the owner(s) of the open space, or other documentation satisfactory to the Township, which shall provide for and assure that the open space shall be preserved in perpetuity and maintained as needed.
5. Provide notice of possible assessment to the private property owners by the Township for the maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.
6. Except for on existing active farms, the maintenance requirements of dedicated open space are not necessarily intended to include regular clearing and mowing or other active maintenance. For the purposes of this subsection, maintenance is intended to include such items as removal of any accumulation of trash or waste material within the dedicated open space area, clean up of storm or other Act of God damage, or removal of diseased plant materials.
7. After approval from the Township, the developer shall record the final document with the Berrien County Register of Deeds to provide notice of the restrictions to all persons having or seeking an interest in the property contained in the Open Space Preservation Development. A copy of the recorded document shall be provided to the Township.

J. Any structure(s) or building(s) accessory to an approved open space use and owned and maintained by the same property owner' association as the open space area may be erected within the dedicated open space. These accessory structure(s) or building(s) shall not exceed, in the aggregate, a maximum gross floor area of 100 square feet per dwelling unit within the entire development, up to a maximum of 2,500 square feet. The size, location, design, appearance, and use of any accessory structure or building located within designated open space areas shall be compatible with the character, natural features, and intended use of the open space area. Accessory structures installed after approval of the development shall be considered a major change subject to the provisions of Section VII.C below. Barns used as an accessory to active agricultural operations shall be an exception to this requirement.

K. Designated open space areas not intended to be used for active agricultural uses should be accessible by pedestrians and non-motorized vehicles from all dwelling units in an Open Space Preservation Development by means of public or private streets, or by pedestrian access ways in easements that have a minimum width of twenty (20) feet and an improved surface meeting specifications as approved by the Planning Commission or Township Board. To the extent possible, natural features shall be preserved within easement areas.

Section 20-A.08 Procedures and Approval

A. Review and Approval Process. Proposals for Open Space Preservation Development shall be reviewed following the same procedures required for conventional subdivisions, condominium proposals, land divisions, planned unit developments, or other conventional developments, except that the applicant shall submit a site features inventory prior to development. This inventory shall consist of maps and written analysis which shall identify, describe, and quantify the following features, at a minimum: active agriculture areas, existing vegetation, topography at two (2) foot contour intervals, water courses, drainage patterns, wildlife habitats, roads and road rights-of-way, easements, soils (based on U.S. Soil Conservation Survey or soil borings), MDEQ-regulated wetlands, floodplains, woodlands and tree lines, rare and endangered habitats,

and any additional features uniquely affecting the site. The information required may be modified by the Zoning Administrator based on the characteristics of the site or the scope of the development.

B. Approval of an Open Space Preservation Development 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 final approved plan or application and comply fully with any conditions.

C. Satisfactory evidence that deed restrictions, easements, and measures used to designate and protect the open space have been duly filed with the Berrien County Register of Deeds Office and copies of recorded documents shall be delivered to the Township promptly following approval of an Open Space Development Plan and prior to issuance of any building permits for construction within the development. The Township Clerk shall establish a file and maintain all records for all Open Space Preservation Developments.

Section 20-A.09 Revising Approved Plans

A. Minor changes to an approved Open Space Preservation Development Plan may be permitted by the Planning Commission following normal site plan review procedures outlined in Article 21 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. Other minor changes similar to the above, as determined by the Planning Commission.

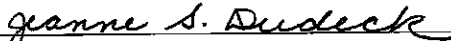
B. Minor changes shall be subject to the finding of all of the following:

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 Preservation Development 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.

C. Revisions to an Open Space Preservation Development that do not qualify as minor under Section A above may be revised by resubmitting the final plan and repeating the process required for approval of the original Open Space Preservation Development Plan.

Section 4.

Enactment. The foregoing changes and amendments to Ordinance No. 87, the Chikaming Township Zoning Ordinance, was enacted on the 9th day of March, 2006, by the Township Board of Chikaming Township, Berrien County, Michigan, and ordered to take effect on the 27th day of March, 2006, the same being more than seven (7) days after its publication.


Jeanne S. Dudeck, Clerk
Township of Chikaming

Attest:

Ivan A. Zimmerman
Ivan A. Zimmerman, Supervisor
Township of Chikaming

CERTIFICATION

I do hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 123, duly adopted by the Township Board of the Township of Chikaming, Berrien County, Michigan, at a regular meeting held on the 9th day of March, 2006. I further certify that Marske moved the adoption of said ordinance and Simmons supported said motion. The names and the members of the Township Board and their vote on the foregoing ordinance were as follows:

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Marske	<u>X</u>	___	___	___
Gibson	<u>X</u>	___	___	___
Simmons	<u>X</u>	___	___	___
Dudeck	<u>X</u>	___	___	___
Zimmerman	<u>X</u>	___	___	___

I further certify that the aforesaid ordinance was recorded in the Ordinance Book for the Township of Chikaming on the 10th day of March, 2006, and such recording has been authenticated by the signatures of the Supervisor and Township Clerk. I further certify that a synopsis of the foregoing ordinance was published in full in the Southcounty Gazette, a newspaper circulated in the Township of Chikaming, Berrien County, Michigan, on the 18th day of March, 2006.

Dated: March 10, 2006

Jeanne S. Dudeck
Jeanne S. Dudeck, Clerk
Township of Chikaming