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P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139

A GREAT PLACE TO GROW

**SPECIAL MEETING OF THE HAMBURG TOWNSHIP PLANNING
COMMISSION**

**WEDNESDAY, MAY 15, 2019 7:00 P.M.
HAMBURG TOWNSHIP HALL BUILDING
10405 MERRILL ROAD, HAMBURG, MICHIGAN**

- 1. CALL TO ORDER**
- 2. PLEDGE TO THE FLAG**
- 3. APPROVAL OF AGENDA**
- 4. APPROVAL OF MINUTES**
- 5. CALL TO THE PUBLIC**
- 6. OLD BUSINESS**
None
- 7. NEW BUSINESS**
 - 1) **ZTA19-001** Discussion of proposed amendment to the Planned Unit Development regulations in Articles 14, 15, 16, 17, and 18
 - 2) **ZTA19-002** Discussion of proposed amendment to the Fence Regulations in Article 8, Section 8.15 of the Zoning Ordinance.
- 8. ZONING ADMINISTRATOR'S REPORT**
- 9. ADJOURNMENT**



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**Planning Commission
Special Meeting
Hamburg Township
10405 Merrill Rd., P.O. Box 157
Hamburg Township, Michigan 48139
April 8, 2019
7:00p.m.**

1. CALL TO ORDER:

Present: Goetz, Hamlin, Koeble, Leabu, Muck, Muir & Priebe

Absent: None

Also Present: Amy Steffens, Planning & Zoning Administrator and Scott Pacheco, Planning & Zoning Director

2. PLEDGE TO THE FLAG:

3. APPROVAL OF THE AGENDA:

Motion by Muir, supported by Koeble

To approve the agenda as presented

Voice vote: Ayes: 7 Nays: 0 Absent: 0 MOTION CARRIED

4. APPROVAL OF MINUTES:

a. February 20, 2019 regular meeting minutes

Motion by Koeble, supported by Hamlin

To approve the February 20, 2019 regular meeting minutes as presented

Voice vote: Ayes: 7 Nays: 0 Absent: 0 MOTION CARRIED

b. February 27, 2019 special meeting minutes

Motion by Priebe, supported by Koeble

To approve the February 27, 2019 special meeting minutes as presented

Voice vote: Ayes: 7 Nays: 0 Absent: 0 MOTION CARRIED

c. February 28, 2019 special meeting minutes

Motion by Hamlin, supported by Priebe

To approve the February 28, 2019 special meeting minutes as presented

Voice vote: Ayes: 7 Nays: 0 Absent: 0 MOTION CARRIED

5. CALL TO THE PUBLIC:

Chairman Goetz opened the call to the public for any item not on the agenda. Hearing no public comment, the call was closed.

6. OLD BUSINESS: None

7. NEW BUSINESS:

COPUD 19-001: Final site plan review for a commercial planned unit development to allow a senior housing development of the property at 4715-25-100-105 (6.5 Acres). The property is currently accessed off the end of Veterans Memorial Drive on the east side of the roadway. This senior housing development proposes a mix of independent living, assisted living, and memory care units.

Scott Bell of Lapham Associates representing the developer, stated that the site plan is similar to the plan presented on February 28th with some minor modifications. The plan includes a more in-depth design including the engineering of the storm water, grading, utilities, etc. They have been working with the Township's engineer. They have been talking with the property owners to the south and east regarding access to the site and extension of Village Center Parkway. They have provided some architectural renderings. He presented a materials board to show the Commission what they are proposing and stated that they would be happy to work through that with staff and members of the Commission. There have been several notes added to the plans based on previous discussions including dedication of the roads, curb-to-curb easements and utility dedication. They have amended the building elevations, however after additional discussions, there may still be some things that the Commission would like to see added.

Scott Pacheco, township planner, gave a history of the project. On February 28, 2019 the Planning Commission recommended the Preliminary CPUD site plan waiving three requirements of the Zoning Ordinance and an additional seven conditions. In his report, he has included staff comments so that the Commission can see what they have done since that preliminary approval. What is in front of the Commission tonight is Phase 1 of the Final site plan. Phase 1 includes Village Center Parkway, Hampton Street, which use to be called Side Street, as well as the detention basin and the portion of the property where the 55,000 square foot Assisted Living and Memory Care facility will be located. Phase 2 will be Independent Street and the 16 independent living units or 4 quadplexes. We are looking at the zoning regulations of the main building. We have the architecture and landscape plans. They have also provided a sign plan, which was given to us at the last minute.

Pacheco stated that the project meets all of the zoning regulations with the exception of the waivers. There are also some Planning Commission waivers under the landscape plan. The waiver section of the ordinance allows the Commission to waive requirements based on project specifics. He reviewed the required items by regulations and the proposed. He stated that because this is such a large project, it is bordered on three sides by private roadways. He discussed the buffer zones between zoning districts. He discussed the parking lot landscaping requirements. He has made some suggested changes and additional trees and has suggested two conditions of approval. The question was asked if the Commission agrees with the suggested conditions, does it still require a waiver. Pacheco stated that it would. It is still significantly under what we would require. Discussion was held on the waivers and modifications. Provided the Commission approves the waiver, the landscape plan with conditions would meet the requirements.

Pacheco discussed the lighting plan and regulations of the zoning district. He stated that we would have to include a condition that they would shut off the lights between 11 p.m. and sunrise unless needed for security purposes. It does meet the rest of the requirements. In addition, they do have street lighting proposed, however street lighting is

treated differently because it is over the property line on right-of-way and will shine on all neighboring properties. He reviewed the number and type of lights. Discussion was held on wall light cut-off.

Pacheco stated that we just received the sign plan today. We may want to make the approval conditioned upon them meeting the zoning requirements or coming back to the Planning Commission for review of the signage. Discussion was held on the signage plan. Pacheco stated that the monument sign does not meet the 10 foot required setback. We would not be able to approve it in that location, and we did not notice a waiver under the CPUD for the sign setback requirements. There is not a Planning Commission waiver allowed for it. Further discussion was held the process for getting the signage approved.

Discussion was held on the parking requirements. They do meet the requirements. There is a requirement for off-street loading. They are suggesting that because of the use of this building, they would not need any off-street loading spaces. He has made a suggested condition dealing with loading space.

Discussion was held on discretionary review criteria. Pacheco stated that Section 17.5 deals with CPUD Design Standards. He reviewed the standards and his suggested conditions. Discussion was held on the Fire Department review which should be forthcoming. It was stated that the developer has been working with the Fire Department and approval can be conditioned upon that review as well as review by others.

Pacheco discussed the site plan review standards in Section 4.5.7. Pacheco stated that the development conforms to all provisions of the Zoning Ordinances and all required information has been provided. He discussed the Review Standards and his analysis.

Mr. Ted Erickson, township engineer, discussed the proposed drainage and grading including the basins that will collect storm water and discharge according to Livingston County standards. There are still some grading details that will need to be worked out. He discussed the water main and sanitary sewer connections. Again, there are a few technical details that will need to be worked out.

Pacheco discussed the limited natural resources on the site. It is not steeply sloped, therefore they will minimize grading. They will be required to meet all of the Livingston County Drain Commission requirements and sediment control. He stated that staff believes that as conditioned, the proposed phase 1 of the project is in substantial compliance with CPUD design standards in section 17.5 and the site plan review standards in section 4.5.7 of the Zoning Ordinance. He has provided a sample approval motion with the proposed conditions. If the Planning Commission recommends approval of this final CPUD, it will go to the Township Board. If they approve the plan, they will instruct the Township Attorney to prepare a contract setting forth conditions and development agreement. To expedite this project, we have started working on the agreement, and it will go to the Township Board at the same meeting they consider the final CPUD. If that is approved, the applicant will file the agreement and CPUD with the County.

Discussion was held on the proposed colors and materials.

Mr. Bell discussed the moving of the sign within the landscape design and making it double-faced. Discussion was held on the color and proposed stone. Discussion was held on the sign lighting. Further discussion was held on lighting of the site.

Mr. Bell discussed the building elevation. He stated that the memory care entrance was intentionally made less prominent because you do not want people to think that is a main entrance. Further discussion was held on the entrance/exits to the memory care facilities. Discussion was held on breaking up that long wall. Pacheco stated that he did include a condition that address the east elevation. Discussion was held on the Architectural Review Board and the applicant working with staff and that Board.

Commissioner Muck discussed the delivery/loading space. He stated that he does not see it as a good plan to use the front space as loading. You will have emergency vehicles that will need that access as well as residents and visitors coming and going. Mr. Bell stated that everyone will enter through the front door including deliveries. Discussion

was held on how deliveries would be made. It was stated that loading/unloading would take approximately 20 minutes approximately once per week and early in the morning during very limited traffic. Discussion was held on the location of the kitchen which requires deliveries. It was stated that deliveries would be limited to kitchen deliveries and residents moving in and out.

Commissioner Leabu discussed the color of the siding and shakes.

Commissioner Hamlin questioned the extension of Village Center Parkway and the sidewalk. Mr. Bell stated that it will be extended to the post office. Veteran's Memorial Drive will be extended with gravel, and the sidewalk will be extended as well. Hamlin asked if the storm basins would have water in them. Mr. Bell stated that they will be dry and will be a mowed lawn. He discussed the slope. He further stated that there is not much room for landscape. He stated that there will be more landscape elements added with phase 2.

The question was asked if there is a requirement when phase 2 will be started. Pacheco stated that will be in the development agreement. He stated that they are proposing five years from when phase 1 begins or the property would have to be sold back to the Township for \$100. We would then work with another developer.

Discussion was held on the ownership. Mr. Sam Martin of Build Senior Living stated that they are in the middle of purchasing the property.

Discussion was held on some of the items needing to be done prior to issuance of a building permit versus a land use permit.

Discussion was held on the wall lighting and the timing of them turning off. It was stated that an additional condition could be added. Leabu stated that if they are residential in nature, he does not have a problem with leaving them on. Pacheco suggested that it be put in under the submittal to the Architectural Review Board. Further discussion was held on the night lighting.

Motion by Priebe, supported by Koeble

The Planning Commission recommends approval of the Phase 1 final CPUD site plan because the project as conditioned below meets the CPUD standard in section 17.5 and the site plan review standards in Section 4.5.7 of the zoning ordinance as discussed at the meeting tonight and as presented in the staff report.

Waivers:

1. Section 7.6.1 (P) (Footnot11) requires that in VC zoning "*No building shall be greater than thirty thousand (30,000) square feet gross floor area except for a group of uses, each with individual pedestrian entrances.*" The proposed main building is 55,580 square feet with 45,672 square foot for the 54 assisted livings unit and 9,908 for the 16 memory care units.
2. Section 7.6.1 (P) (Footnote 12) requires that in the VC zoning district "*Buildings shall be placed no more than twenty (20) feet from the front lot line.*" The main building will be setback between 75 to 80 feet from Village Center Drive and approximately 65 feet from the side street. This distance will allow the parking areas to be located near the entrances for visitors, residence and the general public.
3. The Township Zoning Ordinance does not specifically address senior housing facilities in the parking requirements within the Zoning Ordinance. The proposed project will have 45 parking spaces associated with the main building and 29 parking spaces associated with the 4 independent living quadplexes.

Conditions of Approval (Outstanding Items):

Conditions of Approval:

1. Prior to receipt of a Certificate of Occupancy on the main building, the extension of Village Center and Veterans Memorial Drive shall be complete.
2. Prior to issuance of a building permit for Phase 1 of Hampton Manor or Hamburg approvals from all appropriate township, county, state and federal agencies, including, but not limited to, the Hamburg

Township fire district, engineering and utilities, the Livingston County Road Commission, Drain Commissioner, Health Department and Water Authority and the Michigan Department of Transportation and Environmental Quality shall be obtained.

3. If the street remain private, the final development agreement will include wording that requires a curb to curb easement for all the roadways on the subject site, that all through traffic has open access along these roadways, and that the easement shall be dedicated upon request to any municipality that may now or in the future control the roadways and wishes to except these easements as public roadways.
4. Prior to issuance of a building permit, the developer will either have approvals from the surrounding property for the off-site improvements or will provide the Township with a performance guarantee for the project as required in the development agreement for this project.
5. Additional shrubs shall be planted along the north, east and west building elevation to provide better landscape screen for the future building.
6. Three additional canopy trees shall be planted south of the courtyards to provide a landscape screen from the future development south of the site.
7. All signage shall meet the requirements in Article 18, Section 18.10, and the base of the freestanding sign shall be stone to match that used on the main building.
8. All deliveries shall be made by vehicles no larger than a van if any deliveries are made in vehicles larger than a van the area in the porte-cochere by the front door shall be used as the loading space. Prior to Final Site Plan approval by the Township Board, the applicant shall show the 12' by 25' loading space on the site plan.
9. All sidewalks shall be a minimum of 6 feet wide.
10. Prior to final site plan approval by the Township Board, the applicant shall work with staff and a two person architectural subcommittee made up of two Planning Commissioners and revise the architecture of the building as follows:
 - a. A three or two window area with a gable roof similar to the three areas on the west side of the north elevation shall be added to the east and west elevations;
 - b. Side windows and a small overhang shall be added to the three doorways off of the south elevations, and
 - c. The fixtures that will be used for the wall lights shall be reviewed.
11. Prior to final site plan approval by the Township Board, the applicant shall work with staff and a two person architectural subcommittee made up of two planning commissioners and revise the architecture of the building to revise the hip roofs facing the south elevations to include a gable detail similar to the roofs over the north portion of the east elevation.
12. Three street light fixtures shall be added to the site plan and installed along the east side of the extended Veterans Memorial Drive as a part of this project. The one existing street light may be used by the developer in this location.
13. Prior to issuance of a building permit, the applicant shall record the executed Development Agreement and all attachments in the County records.

Voice vote: Ayes: 7 Nays: 0 Absent: 0 MOTION CARRIED

Mr. Sam Campbell of 7234 E. M-36 stated that Phase 2 will be five feet higher than his property. The bottom of the retention pond is higher than his property, and you just cannot take care of run-off. He stated that those retention ponds are going to hold water. He knows the soils. He further stated that his utilities run from M-36 down the driveway. He was promised an easement, and has not heard anything about it. Pacheco stated that one of the conditions require that if the street remains private, the final development agreement will include wording that requires a curb to curb easement for all the roadways on the subject site, that all through traffic has open access along these roadways, and that the easement shall be dedicated upon request to any municipality that may now or in the future control the roadways and wishes to except these easements as public roadways. He further discussed accesses and easements. Again, that will be addressed in the Development Agreement. It was stated that they are proposing to do some grading on Mr. Campbell's property, and they would have to have permission to do so. Mr. Campbell

stated that nobody has talked to him to let him know what is going on. Mr. Bell stated that they have not gotten the approval to move forward yet. Pacheco stated that they will need all of the permissions from the affected property owners prior to permits. The property owners will need to negotiate with the developer.

8. ZONING ADMINISTRATOR'S REPORT:

Amy Steffens, Planning & Zoning Administrator, stated that the April 17th meeting will be canceled due to lack of business.

Discussion was held on the Village Center zoning district and its separate regulations and Master Plan.

9. ADJOURNMENT:

Motion by Leabu, supported by Muir

To adjourn the meeting

Voice vote: Ayes: 7 Nays: 0 Absent: 0 MOTION CARRIED

The Regular Meeting of the Planning Commission was adjourned at 8:39 p.m.

Respectfully submitted,

Julie C. Durkin
Recording Secretary

The minutes were approved as presented/Corrected:_____

Fred Goetz, Chairperson

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Supervisor: Pat Hohl
Clerk: Jim Neilson
Treasurer: Al Carlson
Trustees: Mike Dolan
Bill Hahn
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Jason Negri

MEMORANDUM

To: Planning Commission
From: Scott Pacheco, Planning and Zoning Director
Date: May 15, 2019
Item: 7
Subject: Zoning Text Amendment (ZTA19-001) to revise the Planned Unit Development Articles 13,14, 15, 16, and 17 and to add a new Article to regulate Cottage Housing Planned Unit Developments.

ANALYSIS:

Currently there are five articles in the Zoning Ordinance that provide processes to relax the zoning regulations base on a projects location, design and elements, articles 13, 14, 15, 16, and 17. The proposed revisions to these Articles are intended to clear up the intent and clarify the processes and wording of the PUD articles.

Attached to this report as Exhibit A-E are proposed draft revision to these Articles and a draft New Article that address cottage housing planned unit developments.

The draft revisions are attached the ~~strike through~~ shows existing wording in the ordinance that is proposed to be eliminated, the **highlighted words** are items in the ordinance that he Planning Commission may considered revisions to, and the ~~red wording~~ is new proposed wording to be added to the ordinance.

Article 2 Definitions:

Add the definition of Development Agreement to this Article as follows:

DEVELOPMENT AGREEMENT: A voluntary contract between a local jurisdiction and a person who owns or controls property within the jurisdiction, detailing the obligations of both parties and specifying the standards and conditions that will govern development of the property.

Article 13 Planned Unit Development: This article eliminates the previous Planned Unit Development (PUD) regulations and encourage projects to be developed utilizing the Open Space Community option contained in Article 14.00; Allows the continuance of PUDs that received final approval prior to the effective date of this amendment; Provides for the review of these PUD's under Article 14 of site plan amendments to PUD's and provides for the review under Article 14 of developments that received preliminary PUD review under the previous PUD regulations but did not receive final PUD approval prior to the effective date of this amendment.

Staff Revisions:

There are no proposed changes to this Article.

Article 14 Open Space Planned Unit Development: This Article offers an alternative to traditional subdivisions by encouraging the use of Township land in accordance with its character and adaptability; assuring the permanent preservation of open space, agricultural lands, and other natural resources; providing recreational facilities within a reasonable distance of all residents of the Open Space Community development; allowing innovation and greater flexibility in the design of residential developments in the RAA, RA, NR, and WFR zoning districts; facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; ensuring compatibility of design and use between neighboring properties; and, encouraging a less sprawling form of development, thus preserving open space as undeveloped land.

Staff Revisions:

- 1) Add general minor revisions to clarify wording and the intent of the regulations
- 2) Section 14.1, 14.4.1 and 14.4.5: Remove the High Density Residential (RB) and Village Residential (VR) zoning district from the Open Space Planned Unit Development regulations.
- 3) Section 14.4.3 (B): Allow the minimum lot size for the parallel plan to be reduced by and addition 15% if the project is served by public sewer or water and an additional 30% if the project is served by both public sewer and water. Added chart showing the minimum lot sizes.
- 4) Section 14.4.7: Remove the ability for the Planning Commission to give additional density bonuses to open space projects above and beyond the percentages allowed by the open space ordinance in the Regulatory Flexibility section.

The density bonuses allowed under the open space ordinance would be the 31.16 % bonus if the project meets the minimum requirements for an open space project under section 14.4.8, an addition 15% if the project is served by public sewer, an additional 15% if the project is served by public water and an additional 15% if the project is deemed to meet the requirements for exemplary project under section 14.5. (See Charts in 14.4.3 (B) and 14.5.

- 5) Section 14.4.8 (B) and 14.4.8 (C)(1): Do not allow the area within a private roadway easements to be used in the calculation of open space area.
- 6) Section 14.4.8 (D): Allow the Planning Commission to require a 3' tall landscaping berm in addition to other landscaping to help screen open space areas located along major arterials.
- 7) Section 14.4.11: added wording to allow for garages in the rear yard area or alley loaded garages.
- 8) Section 14.4.15: revised the wording to require that open space projects meet the natural features setback required in section 9.9 of the zoning ordinance.
- 9) Section 14.5.1: Add a chart to show minimum lot area for parallel plan with exemplary project density bonus with public sewer, water or both.
- 10) Section 14.7, 14.8 and 14.9: Revise these section to be the same as the processes required for ECHO, CHPUC and GPUD Articles.

Article 15: Elderly Cottage Housing Opportunity: This Article is intended to offer an alternative to traditional single family detached or attached housing developments for elderly persons in the RAA, RA, NR, WFR, RB, VC, and VR zoning districts.

Staff Analysis:

- 1) Section 15.1(e) and 15.4 (G): Revises the requirement to allow ECHO units to be up to four attached single-family units. The zoning ordinance defines Attached Single-Family Dwelling Units as:

“A self-contained single-family dwelling unit attached to a similar single-family dwelling unit with party or common walls, designed as part of a series of three (3) or more dwelling units, each with:

- *a separate entryway with direct access to the outdoors at ground level;*
- *a separate basement, if applicable;*
- *separate utility connections; and*
- *defined and rear yards.*

Single family attached dwelling units may also be known as townhouses, row houses, or clustered single-family dwellings.”

The current regulations allow ECHO units to be detached. This means that the units may only be single units or duplexes. Because senior housing is becoming more necessary as the population of the area ages and because many of the independent senior housing facilities in the area contain structures 3 or more attached units I would suggest that the provisions be revised to also allow attached units.

- 2) Section 15.3: Revised to allow ECHO villages in the VC zoning District.
- 3) Section 15.4 (F) and (N): The Planning Commission may wish to revise or eliminate the following requirements
 - a. The Maximum ECHO unit size from 980 square feet?
 - b. The required roof pitch from 4:12 ratio or greater?
 - c. The number of Parking Spaces required is currently 2 spaces per unit?
- 4) Section 15.3 (Q): added some addition requirements communally found in regulations on universal design.
- 5) Section 15.5: Revise to remove requirement for a special use permit and require site plan review approval with a public hearing at preliminary site plan similar to all other PUD sections.
- 6) Section 15.6: Add review procedures for ECHO Village approvals similar to OSPUD, CHPUD and GPUD articles.
- 7) Section 15.7 (B): revised the wording to change from *“shall record an affidavit”* to shall record a development agreement and added the definition of development agreement in Article 2.

Article 16 Cottage Housing Planned Unit Development (new Article) This Article is intended to offer an alternative to traditional single family detached and attached housing developments. The section would encourage the construction of smaller more affordable clustered units with shared amenities in the RB, VC and VR zoning districts. This Article is modeled after the ECHO regulations in Article 15. There are some slight differences from the ECHO regulations to set the two PUD's apart.

Staff Analysis:

This section has been added to incentive alternative lower cost, more dense housing in the Village Center Area. This will help direct higher density project to the Village Center where public sewer and water are available. This article will provide an alternative to the existing housing stock within Hamburg Township. The currently residential housing stock of Hamburg Township is mostly made up of relatively large homes on relatively large lots. The smaller

homes with shared common elements that this article promote will likely appeal to millennials and seniors.

Article 17 Hardship Planned Unit Development (was Article 16) This Article is intended to provide a site specific administrative remedy to allow reasonable use of property in those limited situations in which a property owner demonstrates to the Township Board, after Planning Commission reviews and recommends that (1) the applicant's property cannot be used for the purposes permitted in the zoning district, (2) the plight is due to unique circumstances peculiar to the property and not to the general neighborhood conditions, (3) the proposed development and use would not alter the essential character of the area, and (4) the applicant's problem has not been self-created.

Staff Analysis:

- 1) Added general minor revisions to clarify wording and the intent of the regulations.
- 2) Section 17.2: Required HPUD to be subject to the provisions Article 4 Site Plan Review instead of Section 3.3 Land Use Permit.
- 3) Section 17.3 Revise this section to be similar to the Review Procedure in the OSPUD, ECHO, CHPUD and GPUD article, and incorporated the special procedural requirements (Section 17.3.3) of the HPUD article.
- 4) Section 17.4 Remove Item F Effect of Approval and added Section 17.4 General Requirements to match the other PUD Articles.
- 5) Section 17.5 Added this section to address revisions to the HPUD and match the OSPUD, ECHO, CHPUD and GPUD articles.

Article 18 General Planned Unit Development (was Article 17) This Article intended to permit regulatory flexibility in the NS, CS, MD, VR, and VC zoning districts; to achieve to achieve economy and efficiency in the use of land, natural resources, energy and in the provision of public services and utilities; to encourage the creation of useful open space particularly suited to the proposed development and parcel on which it is located; and to provide appropriate housing, employment, services and shopping opportunities to satisfy the needs of residents of the Township of Hamburg.

Staff Analysis:

- 1) Changed the Article name from Commercial Planned Unit Development to General Planned Unit Development and added appropriate housing to the intent section 18.1 (C).
- 2) Section 18.4: Added Village Residential to the list of zoning districts where a GPUD would be allowed.
- 3) Sections 18.7 and 18.8: Added these sections to address the approvals and the revisions to the approved plans. These sections are consistent with the requirements in the OSPUD, ECHO, and CHPUD articles.

RECOMMENDATION:

The Planning Commission should review, discuss and make any changes to the draft revisions to the zoning ordinance and direct staff to notice these draft revisions for the next Planning Commission Meeting on June 19, 2019.

EXHIBITS

Exhibit A- Draft revisions to Article 14, Open Space Planned Unit Development (OSPUD)

Exhibit B- Draft revisions to Article 15, Elderly Cottage Housing Opportunity Planned Unit Development (ECHO)

Exhibit C- Draft New Article 16, Cottage Housing Planned Unit Development (CHPUD)

Exhibit D- Draft revisions to Article 17 (was Article 16), Harship Planned Unit Development (HPUD)

Exhibit E- Draft revisions to Article 18 (was Article 17), General (was Commercial) Planned Unit Development (GPUP)

ARTICLE 14.00
OPEN SPACE COMMUNITY PLANNED UNIT DEVELOPMENT
Effective XXXX, 2019

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 the following single family residential districts RAA, RA, ~~RB~~, WRF, ~~VR~~ and NR.

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

Exhibit A

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, **variety of housing types and sizes, providing additional amenities for public use**, 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 nonregulated 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.

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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 to 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:

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

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

A1. 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.

B2. 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.

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

A1. 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

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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.

B2. 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:

~~Underlying Zoning District~~

~~Parallel Plan Minimum Lot Size (square feet)*~~

~~RAA 60,000~~

~~RA 30,000~~

~~RB 7,000~~

~~NR 30,000~~

~~WFR 30,000~~

~~VR 10,000~~

Underlying Zoning District Parallel Plan Minimum Lot Size (square feet)					
Zoning District	Original	Meeting Open Space Regulations	Meeting Open Space Regulations with Public Sewer	Meeting Open Space Regulation with Public Water	Meeting Open Space Regulation with Public Sewer and Water
RAA	87,160	60,000	51,000	51,000	42,000
RA	43,580	30,000	25,500	25,500	21,000
NR	43,580	30,000	25,500	25,500	21,000
WFR	43,580	30,000	25,500	25,500	21,000

C3. 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 an **additional** 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.~~

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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, **except for additional density bonuses**, 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 **allowed** 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 14.4.78.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**.

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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 or private. 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. **The Planning Commission may require the provision of a planting berm at least three (3) feet in height in addition to the plant materials required to further help to separate open space areas along the public right-of-way parallel to a major arterial.**

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
3. A conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L. 399.251).

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 plant material;
 - c. Cutting or removal of live plant material except for removal of dying or diseased vegetation;

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- 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. **This dedication shall be written and recorded with the Development Agreement.**

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:

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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, ~~garages to the rear of the main structure, alley loaded 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 ~~rear yard,~~ 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, unless required by the Planning Commission for approval.~~

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.

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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 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.

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.~~ that the project meets the natural features setback requirements of Article 9 Section 9.9 of the zoning ordinance.

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

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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. An **additional** density bonus of up to fifteen percent (15%) (See Chart) 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 or public water.

Underlying Zoning District Parallel Plan Minimum Lot Size with Exemplary Project Density Bonus (square feet)			
Zoning District	Meeting Open Space and Exemplary Projects Regulations with Pubic Sewer	Meeting Open Space and Exemplary Projects Regulation with Public Water	Meeting Open Space and Exemplary Projects Regulation with Public Sewer and Water
RAA	42,000	42,000	35,700
RA	21,000	21,000	17,850
NR	21,000	21,000	17,850
WFR	21,000	21,000	17,850

Projects qualifying for a density bonus for exemplary projects 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 offstreet 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.

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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.

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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 an 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:

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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 an 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 -- Review Procedures

The following outlines the procedures and requirements which must be followed for a development to receive OSPUD approval. Prior to all scheduled Planning Commission or Township Board meetings, the

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applicant shall submit fifteen (10) copies of the completed site plan with the Zoning Administrator at least twenty-one (21) days prior to the Planning Commission or Township Board meeting at which the site plan is to be considered. The Zoning Administrator shall determine the number of plans the applicant shall provide prior to any scheduled pre-application meeting.

14.7.1 Pre-Application Meeting. An optional pre-application conference can be held with township staff including Township Planner and Township Engineer as determined by the Zoning Administrator to review applicability of the OSPUD ordinance to the proposed site and uses.

14.7.2 Conceptual Review. The applicant may submit a draft site plan for the optional conceptual review by the Planning Commission. The draft site plan shall include as much detailed information as needed for the applicant to convey to the Planning Commission how the applicant would like to utilize the site. Information should include potential building locations, vehicular parking areas, types of uses, road layouts, if applicable, and setbacks from property lines. The conceptual review allows the applicant to present the proposed project to the Planning Commission, at an early stage in the development process, prior to formal submittal of the project. This process allows the developer to receive comments and feedback from the Planning Commission based on the information submitted. No formal action is taken by the Planning Commission at this time.

14.7.3 Preliminary OSPUD Site Plan Review and Public Hearing. The applicant prepares and submits a Preliminary Site Plan. The Preliminary OSPUD site plan shall contain enough detail to explain the proposed uses, relationship to adjoining parcels, vehicular and pedestrian circulation patterns, open spaces and landscape areas, and building density or intensity. The Planning Commission shall conduct a public hearing in accordance with Section 3.5.2.B. Following the public hearing, the Planning Commission gives direction to the applicant. The plan is revised, if necessary. The Planning Commission then takes action to recommend approval or denial of the Preliminary OSPUD site plan to the Township Board based upon the Preliminary OSPUD site plan meeting the eligibility requirements as outlined in Section 17.03. A recommendation of approval for the Preliminary OSPUD site plan shall be accompanied by a description of the minimum conditions under which the proposal will be considered for final approval. In describing such conditions, the Planning Commission may identify specific requirements or standards in the Zoning Ordinance which could be waived or modified upon approval of the final OSPUD site plan.

The Township Board shall consider the Planning Commission recommendation and public hearing comments and shall take action to approve, deny or remand the site plan back to the Planning Commission for further review.

14.7.4 Final OSPUD Site Plan Review.

A. The applicant shall submit a Final OSPUD site plan which contains all information required for site plan review under Section 4.5.6 of the Township Zoning Ordinance and approvals from all appropriate county, state and federal agencies, including, but not limited to, the Livingston County Road Commission, Livingston County Drain Commissioner, Livingston County Health Department and the Michigan Department of Transportation.

B. The Planning Commission shall review the submitted Final OSPUD site plan to insure compliance with all standards and criteria of Article 17, Commercial General Planned Unit Development, the Hamburg Township Zoning Ordinance and the Hamburg Township Master Plan, M-36 Corridor Plan, Hamburg Township Village Plan, and the Southeast Livingston County Greenways Plan where applicable. The

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Planning Commission then takes action to recommend approval or denial of the Final OSPUD site plan to the Township Board based upon compliance with the above referenced standards.

C. Upon receipt of the report and recommendation of the Planning Commission, the Township Board shall review all findings. If the Township Board determines that approval would be appropriate, it shall instruct the Township Attorney to prepare a contract Development Agreement setting forth the conditions upon which such approval is based. Such conditions shall include, where appropriate, identification of the phases and time table for development, and an estimate of the costs of implementing each phase.

D. After approval by resolution of the Township Board, the contract Development Agreement shall be executed by the Township and the applicant and recorded in the County records. Approval shall be granted only upon the Township Board determining that all qualification requirements, conditions of approval, and provisions of this and other Township Ordinances have been met, and that the proposed development will not adversely affect the public health, welfare and safety. Approval shall further be subjected to the condition that the contract will be properly recorded.

E. Approval of an OSPUD site plan shall be effective upon recording the contract and filing proof of recording with the Township Clerk.

F. Once an area has been included, within the boundaries of an approved OSPUD, no development may take place in the OSPUD except in accordance with the Township Board-approved OSPUD site plan.

G. Prior to any development within the area involved, an approved OSPUD site plan may be terminated by the applicant or the applicant's successors or assigns, by filing with the Township and recording in the County records an affidavit so stating. The approval of the plan shall terminate upon such recording.

H. No approved plan shall be terminated after development commences except with the approval of the Township Board and of all parties having an equity interest in the land.

Section 14.78. General Requirements

14.7.1A. 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.

14.7.2B. 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.

14.7.3C. Recording of Action. The applicant shall record ~~an affidavit~~ a **Development Agreement** 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.

Exhibit A

~~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.

14.7.5D. 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.

14.7.6E. 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.

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

G. 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.

H. 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 14.8. 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

A. General Revisions. Approved plans for an OSPUD may be revised in accordance with the procedures set forth in Section 14.7.

Exhibit A

B. **Minor Changes.** Notwithstanding Section 14.9.1, minor changes to an approved OSPUD plan may be permitted by the body which granted the initial approval, following normal site plan review procedures outlined in Article 4.00, "Site Plan Review," 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 OSPUD 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 OSPUD common areas as required herein.

~~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, provided the setbacks are not decreased to less than the required setback allowed by the underlying zoning district;~~
- ~~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. Increasing the amount of amenities;~~
- ~~89. Changes to phasing plan; and~~
- ~~910. 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.~~

Exhibit A

~~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.~~

ARTICLE 15.00

**ELDERLY COTTAGE HOUSING OPPORTUNITY (ECHO) PLANNED UNIT
DEVELOPMENT**
~~Effective May 6, 2009~~

Section 15.1. Intent

It is the intent of this Article to offer an alternative to traditional single family detached **or attached** housing developments for elderly persons through the use of planned unit development legislation as authorized by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended for the purpose of:

- a. Encouraging the construction of more affordable single family residential detached **or attached** dwelling for elderly persons units utilizing cluster septic tank drainfields and common water supply systems;
- b. Facilitating the construction of affordable single family residential detached housing units for elderly persons on a smaller scale than conventional multi-family developments that require public infrastructure improvements such as roads, and public water and sewer to accommodate higher density and lower cost dwelling units;
- c. Offering an alternative to multi-family residential developments in order to provide affordable housing for elderly persons in a small scale, less dense neighborhood setting;
- d. Preserving the rural character and appearance of the township through the construction of small scale environmentally sensitive elderly person developments on scattered sites.
- e. Encouraging the clustering of detached **or attached** single family elderly person dwelling units to promote the safety and security of the senior citizen residents.

These regulations are intended to preserve a traditional rural character to the land use pattern in the Township through the creation of small elderly person residential nodes contrasting with open space and less intensive land uses. This Article is not intended as a device for circumventing 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.

Section 15.2. Definitions

- A. **ECHO Lot:** Land occupied or to be occupied by ECHO units and accessory buildings permitted herein, together with such open spaces as are required under this Ordinance and having its principal frontage upon a street.

Exhibit B

- B. **ECHO Unit:** A single family residential dwelling unit with full facilities for residential self-sufficiency in each individual dwelling unit which has a resident who is an elderly person.

- C. **ECHO Village:** An ECHO Village is a housing development which meets the unique needs of the elderly through the provision of significant facilities and services specifically designed to meet the physical or social needs of such residents.

Section 15.3. Zoning

An ECHO village may be located after approval of a special use permit in accordance with Section 3.5 in the following zoning districts: RAA, RA, RB, RC, CS, **VC, VR**, OH or MD, or WFR provided the development does not have riparian rights (i.e. does not have shoreline along a lake or river).

Section 15.4. Development Design Standards

ECHO village housing shall meet the following criteria:

- A. On-site sewage disposal and water supply must be approved by the Livingston County Health Department.

- B. **ECHO Village Size.** No fewer than four (4) ECHO units nor more than twenty (20) ECHO units shall be permitted per lot.

- C. **Acreage and Density Requirements.** An ECHO village development may be approved upon any residentially zoned land with density as permitted below:

<u>District</u>	<u>Minimum Acreage</u>	<u>Minimum Density Per ECHO Unit</u>
RAA	3 acres	15,000 square feet
RA	2 acres	10,000 square feet
RB	2 acres	10,000 square feet
WFR	2 acres	10,000 square feet
CS	1 acre	5,000 square feet (as amended 3/29/95)
RC	1 acre	5,000 square feet
VR	1 acre	5,000 square feet
VC	1 acre	5,000 square feet
MD	1 acre	5,000 square feet

- D. **Unified Control.** The ECHO village shall be initially under single ownership or control, so there is a single person, entity or condominium having proprietary responsibility for the development of the ECHO village as evidenced by a title company licensed to do business in Michigan.

- E. **Guarantee of Open/Common Space.** At least fifteen (15) percent of the total site area shall be reserved as open space. This open space shall be held in common ownership by all residents of the ECHO village. This open space shall be utilized for recreation facilities such as picnic areas, walking trails or other open space uses

Exhibit B

which provide elderly residences the opportunity to enjoy the natural features of the site. The open space shall be configured to be integrated with the individual units and maximize the proximity of each housing unit to natural open space. If the open space is close and accessible for residents of all individual units, it need not be owned in common. A guarantee to the satisfaction of the Township Planning Commission that all open/common space portions of the development will be maintained in the manner approved shall be provided. 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 ECHO village plan.

F. Area, Height, Bulk and Layout Regulations.

Minimum ECHO unit floor area:	400 square feet
Maximum ECHO unit floor area:	980 square feet
Maximum building height:	1 story
Required roof pitch:	4:12 ratio or greater
Minimum building width, any dimension:	14 feet
Minimum gazebo:	60 square feet
Distance between roof overhangs of Buildings:	10 feet
Handicap ramps:	May encroach into any setback space.
Basement:	Optional
Shed:	Optional
Garage:	Optional
Covered parking:	Optional
Minimum setbacks:	15 ft. from Street or private road right-of-way 10 ft. side and rear lot lines 5 ft. from common access drives
Common access drives:	4 ft. from all lot lines

G. Attached Units: No more than 4 units shall be attached in a single structure.

H. Garages. Detached garages can be located no more than one hundred (100) feet of walking distance from the ECHO unit which it serves.

HI. Porches. Each ECHO unit shall have at least one (1) covered porch of at least twenty four (24) square feet in area.

IJ. Common Area. Each ECHO village which contains 5 or more ECHO units shall have a common area containing at least one (1) gazebo, deck, patio or terrace that shall be covered with a roof, be a minimum of 60 square feet, and be of the same architectural style and design as the ECHO units located on the lot.

JK. Storage Sheds. Any storage sheds shall be so designed as to have the same roof pitch and architectural style as the ECHO units in the development. Storage sheds

Exhibit B

may be linked so as to have common walls; however, each shed must have its own private, lockable access door. The dimensions of any shed servicing an ECHO unit shall conform to other size provisions of the zoning ordinance.

- KL. Water and Septic System Service.** If there is public water and/or sewer service available to the lot or in the area on which an ECHO development is located, connection into the system may be required.
- LM. Roads.** The ECHO village shall have paved access designed and constructed to AASHTO standards and shall provide adequate access for emergency vehicles.
- MN. Off-Street Parking Requirements.** The parking standards for an ECHO village shall be two (2) spaces per unit. Each parking space shall have a minimum size of 180 square feet (10 feet by 18 feet), and may be located either on-site or within one hundred (100) feet of the site.
- NO. Construction Drawings Required.** Scaled floor plan and building elevation drawings shall be presented for each ECHO unit within the ECHO village that has a different interior layout and square footage of living space.
- OP. Sidewalks and Access Ramps.** All pedestrian circulation walkways and sidewalks shall be hard-surfaced with either asphalt, concrete or brick paving and be accessible to the handicapped according to the standards set forth in the Americans With Disabilities Act. Handicapped access ramp structures may encroach into any required setback space.
- PQ. Interior Design.** The interior of each ECHO unit shall be designed to provide ease of mobility by seniors who may have mobility limitations. The following standards shall be met for all ECHO units:
1. **Must include one no-step path to a no-step entry that can be at the front, side, rear, or through a garage.**
 2. All doors, shall provide a minimum 32 inch clear opening when the door is standing 90 degrees open.
 3. All hallways or passageways shall be at least three feet, six inches (3'-6") in width.
 4. There shall be no raised thresholds in the units. Floors shall continue through door openings at the same level.
 5. All bathroom and kitchen features shall be designed in accordance with the American National Standards Institute (ANSI), *Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People*, section 4.34, Dwelling Units, of ANSI A117.1 (1980), or structurally designed and laid out to accommodate these standards.

6. Clear floor space of at least 30 x 48 in. in front of all appliances, fixtures, and cabinetry

QR. Design Compatibility. The exterior of each ECHO unit shall be compatible in terms of architectural design, materials and color with the residential structures in the immediate neighborhood within 300 feet of the development parcel or lot. However, all housing units shall be a minimum of fourteen (14) feet wide at their least horizontal dimension and attached to a permanent foundation. The roof pitch of an ECHO unit shall be at least a 4:12 pitch. Accessory buildings for an ECHO unit, such as a detached garage and shed, shall also conform to the minimum roof pitch and be architecturally compatible with the design and style of the ECHO unit. Compatibility of design shall be decided by the planning commission.

RS. Waiver of Standards. The planning commission is hereby empowered to waive site design standards and development area requirements if public health and safety are not compromised. The planning commission is further empowered to specify conditions in issuing any special use permits as may be required.

Section 15.5. ~~Development Special Use Project~~ Standards

~~**Special Use Permit Required:** A Special Use Permit shall be required in accordance with the provisions of Article 3.5, "Special Use Permits," of the zoning ordinance including a site plan in accordance with Article 4.00. In considering any application for approval of an ECHO village, the planning commission shall make its determinations on the basis of the following standards and requirements:~~ In considering any application for approval of an ECHO Village 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:

- A. **Compliance with the ECHO Concept.** The overall design and land uses proposed in connection with an ECHO village shall be consistent with the intent of the ECHO concept, as well as with the specific design standards set forth herein.
- B. **Compatibility with Adjacent Uses.** The proposed ECHO village site 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:
 1. The bulk, placement, and materials of construction of proposed structures.
 2. Pedestrian and vehicular circulation.
 3. The location and screening of vehicular use or parking areas.
 4. The provision of landscaping and other site amenities.

Exhibit B

- C. **Protection of Natural Environment.** The proposed ECHO village shall be protective of the natural environment. It shall comply with all applicable environmental protection laws and regulations.
- D. **Common Area and Unit Maintenance.** The ECHO village shall include in the Master Deed, Community Bylaws and Covenant provisions for the maintenance of the common open space, including landscaping maintenance, snow removal and repairs to building exteriors.
- E. **Compliance with Applicable Regulations.** The proposed ECHO village shall comply with all applicable federal, state and local regulations.
- F. Because of the specialized character of such uses, the limited class of occupants and the potentially limited market for such units, the planning commission may require a market study and or surveys of elderly residents in the vicinity of Hamburg Township as to documenting the long term marketability of the development and which supports both the need and market for the development. The planning commission may require written supporting evidence from national elderly assistance groups such as American Association of Retired Persons (AARP) that units of such floor area and density, and developments of such an arrangement are attractive and feasible for the elderly.
- G. The planning commission may require the submission of letters of endorsement or support for the development from public and private elderly service provider agencies as to the suitability of such dwellings for elderly persons.
- H. The planning commission may base its action on experience with and competition from similar developments in the area.
- I. The planning commission may base its approval on the long-term availability of senior services to be provided by the developer, operator, government or private elderly support agencies, such as medical assistance, meals assistance, proximity to shopping, personal services and medical care, transportation (including access to major roads), recreation and other elderly needs.

Section 15.6 -- Review Procedures

The following outlines the procedures and requirements which must be followed for a development to receive ECHO Village approval. Prior to all scheduled Planning Commission or Township Board meetings, the applicant shall submit fifteen (10) copies of the completed site plan with the Zoning Administrator at least twenty-one (21) days prior to the Planning Commission or Township Board meeting at which the site plan is to be considered. The Zoning Administrator shall determine the number of plans the applicant shall provide prior to any scheduled pre-application meeting.

15.6.1 Pre-Application Meeting. An optional pre-application conference can be held with township staff including Township Planner and Township Engineer as determined by the Zoning Administrator to review applicability of the ECHO ordinance to the proposed site and uses.

Exhibit B

15.6.2 Conceptual Review. The applicant may submit a draft site plan for the optional conceptual review by the Planning Commission. The draft site plan shall include as much detailed information as needed for the applicant to convey to the Planning Commission how the applicant would like to utilize the site. Information should include potential building locations, vehicular parking areas, types of uses, road layouts, if applicable, and setbacks from property lines. The conceptual review allows the applicant to present the proposed project to the Planning Commission, at an early stage in the development process, prior to formal submittal of the project. This process allows the developer to receive comments and feedback from the Planning Commission based on the information submitted. No formal action is taken by the Planning Commission at this time

15.6.3 Preliminary ECHO Village Site Plan Review and Public Hearing. The applicant prepares and submits a Preliminary Site Plan. The Preliminary ECHO Village site plan shall contain enough detail to explain the proposed uses, relationship to adjoining parcels, vehicular and pedestrian circulation patterns, open spaces and landscape areas, and building density or intensity. The Planning Commission shall conduct a public hearing in accordance with Section 3.5.2.B. Following the public hearing, the Planning Commission gives direction to the applicant. The plan is revised, if necessary. The Planning Commission then takes action to recommend approval or denial of the Preliminary ECHO Village site plan to the Township Board based upon the Preliminary ECHO Village site plan meeting the eligibility requirements as outlined in Section 17.03. A recommendation of approval for the Preliminary ECHO Village site plan shall be accompanied by a description of the minimum conditions under which the proposal will be considered for final approval. In describing such conditions, the Planning Commission may identify specific requirements or standards in the Zoning Ordinance which could be waived or modified upon approval of the final ECHO Village site plan.

The Township Board shall consider the Planning Commission recommendation and public hearing comments and shall take action to approve, deny or remand the site plan back to the Planning Commission for further review.

15.6.4 Final ECHO Site Plan Review.

- A. The applicant shall submit a Final ECHO site plan which contains all information required for site plan review under Section 4.5.6 of the Township Zoning Ordinance and approvals from all appropriate county, state and federal agencies, including, but not limited to, the Livingston County Road Commission, Livingston County Drain Commissioner, Livingston County Health Department and the Michigan Department of Transportation.
- B. The Planning Commission shall review the submitted Final ECHO site plan to insure compliance with all standards and criteria of Article 17, Commercial General Planned Unit Development, the Hamburg Township Zoning Ordinance and the Hamburg Township Master Plan, M-36 Corridor Plan, Hamburg Township Village Plan, and the Southeast Livingston County Greenways Plan where applicable. The Planning Commission then takes action to recommend approval or denial of the Final ECHO site plan to the Township Board based upon compliance with the above referenced standards.

Exhibit B

- C. Upon receipt of the report and recommendation of the Planning Commission, the Township Board shall review all findings. If the Township Board determines that approval would be appropriate, it shall instruct the Township Attorney to prepare a contract Development Agreement setting forth the conditions upon which such approval is based. Such conditions shall include, where appropriate, identification of the phases and time table for development, and an estimate of the costs of implementing each phase.
- D. After approval by resolution of the Township Board, the contract Development Agreement shall be executed by the Township and the applicant and recorded in the County records. Approval shall be granted only upon the Township Board determining that all qualification requirements, conditions of approval, and provisions of this and other Township Ordinances have been met, and that the proposed development will not adversely affect the public health, welfare and safety. Approval shall further be subjected to the condition that the contract will be properly recorded.
- E. Approval of an ECHO site plan shall be effective upon recording the contract and filing proof of recording with the Township Clerk.
- F. Once an area has been included, within the boundaries of an approved ECHO, no development may take place in the ECHO except in accordance with the Township Board-approved ECHO site plan.
- G. Prior to any development within the area involved, an approved ECHO site plan may be terminated by the applicant or the applicant's successors or assigns, by filing with the Township and recording in the County records an affidavit so stating. The approval of the plan shall terminate upon such recording.
- H. No approved plan shall be terminated after development commences except with the approval of the Township Board and of all parties having an equity interest in the land.

Section 15.67 General Requirements

- A. **Effect of Approval.** Approval of an ECHO village proposal shall not require, nor shall it be an amendment to the zoning ordinance.
- B. **Recording Action.** The applicant shall record ~~an affidavit~~ a **Development Agreement** with the Register of Deeds containing the full legal description of the development site, specifying the date of final township approval, and declaring that all improvements will be carried out in accordance with the approved ECHO village 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 Livingston County, and copies of the recorded documents shall be presented to the township.

Exhibit B

- C. **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 for an extension, not to exceed twelve (12) months. A maximum of two (2) extensions may be allowed.
- D. **Performance Guarantee.** The planning commission may require a performance guarantee, in accordance with the zoning ordinance.
- E. **Scheduled Phasing.** When proposed construction is to be phased, the development shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, common areas 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 ECHO village and the residents of the surrounding area.
- F. **Timing of Phases.** Each phase of the development 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 15.6.5.

Section 15.78. Revision of Approved Plans

- A. **General Revisions.** Approved plans for an ECHO village may be revised in accordance with the procedures set forth in Section 15.5.
- B. **Minor Changes.** Notwithstanding Section 15.8 (A), minor changes to an approved ECHO village plan may be permitted by the body which granted the initial approval, following normal site plan review procedures outlined in Article 4.00, "Site Plan Review," 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 ECHO village 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 ECHO village common areas as required herein.

ARTICLE 16

COTTAGE HOUSING PLANNED UNIT DEVELOPMENT

Section 16.1. Intent

It is the intent of this Article to offer an alternative to traditional single family detached and attached housing developments through the use of planned unit development legislation as authorized by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended for the purpose of:

- a. Encouraging the construction of more affordable single family residential detached or attached dwelling units which utilizing public sewer and public water systems;
- b. Facilitating the construction of affordable single family residential detached or attached housing units on a smaller scale than conventional multi-family developments to accommodate higher density and lower cost dwelling units;
- c. Offering an alternative to multi-family residential developments in order to provide affordable housing for persons in a small scale, less dense neighborhood setting;
- d. Preserving the rural character and appearance of the township through the construction of small scale environmentally sensitive developments on sites within the Village Center Master Plan Area.
- e. Encouraging the clustering of detached or attached single family dwelling units to promote the safety and security of the residents.

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 circumventing 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.

Section 16.2. Definitions

- A. **CHPUD Lot:** Land occupied or to be occupied by CHPUD units and accessory buildings permitted herein, together with such open spaces as are required under this Ordinance and having its principal frontage upon a street.
- B. **CHPUD Unit:** A single family residential dwelling unit with full facilities for residential self-sufficiency.
- C. **CHPUD:** An CHPUD is a housing development which meets the unique needs of the residents through the provision of significant facilities and services specifically designed to meet the physical or social needs of such residents.

Section 16.3. Zoning

A CHPUD may be located after approval of a special use permit in accordance with Section 3.5 in the following zoning districts: RB, VC and VR.

Section 16.4. Development Design Standards

CHPUD housing shall meet the following criteria:

- A. Public Sewer and public water shall be provided.
- B. **CHPUD Size.** No fewer than four (4) CHPUD units nor more than twenty (20) CHPUD units shall be permitted per lot.
- C. **Acreage and Density Requirements.** A CHPUD development may be approved upon any residentially zoned land with density as permitted below:

<u>District</u>	<u>Minimum Acreage</u>	<u>Minimum Density Per CHPUD Unit</u>
RB	1 acre	7,500 square feet
VC	1 acre	4,100 square feet
VR	1 acre	5,450 square feet

- D. **Unified Control.** The CHPUD shall be initially under single ownership or control, so there is a single person, entity or condominium having proprietary responsibility for the development of the CHPUD as evidenced by a title company licensed to do business in Michigan.
- E. **Guarantee of Open/Common Space.** At least twenty five (25) percent of the total site area shall be reserved as open space. This open space shall be held in common ownership by all residents of the CHPUD. This open space shall be utilized for recreation facilities such as common use buildings, pool areas, picnic areas, walking trails or other open space uses which provide residents the opportunity to enjoy the features of the site. The open space shall be configured to be integrated with the individual units and maximize the proximity of each housing unit to natural open space. A guarantee to the satisfaction of the Township Planning Commission that all open/common space portions of the development will be maintained in the manner approved shall be provided. 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 CHPUD plan.

- F. **Area, Height, Bulk and Layout Regulations.**

Minimum CHPUD unit floor area: 400 square feet
Maximum CHPUD unit floor area: 1200 square feet
Maximum building height: 2 story

EXHIBIT
Exhibit C

Minimum building width, any dimension:	14 feet
Distance between roof overhangs of Buildings:	10 feet
Basement:	Optional
Shed:	Optional
Garage:	Optional
Covered parking:	Optional
Minimum setbacks:	15 ft. from Street or private road right-of-way 10 ft. side and rear lot lines 5 ft. from common access drives
Common access drives:	4 ft. from all lot lines

- G. **Attached Units:** No more than 4 units shall be attached in a single structure.
- H. **Garages.** If provided garages can be attached or detached from the main structure. Garages may be linked so as to have common walls; however, each garage space must be its own private area with lockable doors.
- I. **Porches.** Each CHPUD unit shall have at least one (1) covered porch of at least twenty four (24) square feet in area.
- J. **Private Out Door Space.** Each unit shall have no more than private outdoor space than the square footage of the CHPUD unit. This space shall include any private outdoor parking areas, open porches, and yard space that is not open for common use.
- K. **Common Area.** Each CHPUD shall have a common area containing at least one (1) common use structure such as a pool house, clubhouse, gazebo, deck, patio or terrace that shall be covered with a roof, of similar architectural style and design as the CHPUD units located on the lot, and a minimum of 100 square feet.
- L. **Storage Sheds.** Any storage sheds shall be so designed as to have the same roof pitch and architectural style as the CHPUD units in the development. Storage sheds may be linked so as to have common walls; however, each shed must have its own private, lockable access door. The dimensions of any shed servicing a CHPUD unit shall conform to other size provisions of the zoning ordinance.
- M. **Water and Sewer System Service.** CHPUD developments are required to be serviced by public sewer and public water services.
- N. **Roads.** The CHPUD shall have paved access designed and constructed to AASHTO standards and shall provide adequate access for emergency vehicles.
- O. **Parking Requirements.** The parking standards for a CHPUD shall be two (2) spaces per unit. Each parking space shall have a minimum size of 180 square feet (10 feet by 18 feet), may be located either on-site or within one hundred (100) feet of the site, may be on street or off street and may be within a garage or carport structure or unenclosed. If the applicant requests a reduction in the parking requirements the

Planning Commission must make the findings that alternative transportation options have been provided to the future residence of the project.

- P. **Construction Drawings Required.** Scaled floor plan and building elevation drawings shall be presented for each CHPUD unit within the CHPUD that has a different interior layout and square footage of living space.
- Q. **Sidewalks and Access Ramps.** All pedestrian circulation walkways and sidewalks shall be hard-surfaced with either asphalt, concrete or brick paving and be accessible to the handicapped according to the standards set forth in the Americans With Disabilities Act. Sidewalks and pathways shall be designed to connect the CHPUD units to the common areas on the lot and to connect with adjacent properties. Handicapped access ramps are exempt from the required setbacks.
- R. **Interior Design.** The interior of ten (10) percent, or a minimum of of the CHPUD units shall be designed to provide ease of mobility for the disabled or seniors who may have mobility limitations, with a minimum of one (1) CHPUD unit per . The following standards shall be met for these CHPUD units:
1. Must include one no-step path to a no-step entry that can be at the front, side, rear, or through a garage (1/4–1/2 in. thresholds)
 2. All doors, shall provide a minimum 32 inch clear opening when the door is standing 90 degrees open.
 3. All hallways or passageways shall be at least three feet, six inches (3'-6") in width.
 4. There shall be no raised thresholds in the units. Floors shall continue through door openings at the same level.
 5. Stairways have tread widths at least 11 in. deep and risers no greater than 7 in. high
 6. Light switches and electrical outlets 24–48 in. from finished floor
 7. Access to at least one full bath on the main floor with reinforced walls at toilets and tubs for the future installation of grab bars.
 8. All main floor bathrooms and kitchen features shall be designed in accordance with the American National Standards Institute (ANSI), *Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People*, section 4.34, Dwelling Units, of ANSI A117.1 (1980), or structurally designed and laid out to accommodate these standards.
 9. Clear floor space of at least 30 x 48 in. in front of all appliances, fixtures, and cabinetry

- S. **Design Compatibility.** The exterior of each CHPUD unit shall be compatible in terms of architectural design, materials and color with the residential structures in the immediate neighborhood within 300 feet of the development parcel or lot. However, all housing units shall be a minimum of fourteen (14) feet wide at their least horizontal dimension and attached to a permanent foundation. Accessory buildings for a CHPUD unit, such as detached garage, common room and shed structures, shall be architecturally compatible with the design and style of the CHPUD units. Compatibility of design shall be decided by the Planning Commission.
- T. **Waiver of Standards.** The Planning Commission is hereby empowered to waive site design standards and development area requirements if public health and safety are not compromised. The Planning Commission is further empowered to specify conditions in issuing any special use permits as may be required.

Section 16.5. Project Standards

In considering any application for approval of an ECHO Village 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::

- A. **Compliance with the CHPUD Concept.** The overall design and land uses proposed in connection with a CHPUD shall be consistent with the intent of the CHPUD concept, as well as with the specific design standards set forth herein.
- B. **Compatibility with Adjacent Uses.** The proposed CHPUD site 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:
1. The bulk, placement, and materials of construction of proposed structures.
 2. Pedestrian and vehicular circulation.
 3. The location and screening of vehicular use or parking areas.
 4. The provision of landscaping and other site amenities.
- C. **Protection of Natural Environment.** The proposed CHPUD shall be protective of the natural environment. It shall comply with all applicable environmental protection laws and regulations.
- D. **Common Area and Unit Maintenance.** The CHPUD shall include in the Master Deed, Community Bylaws and Covenant provisions for the maintenance of the common open space, including landscaping maintenance, snow removal and repairs to building exteriors.

- E. **Compliance with Applicable Regulations.** The proposed CHPUD shall comply with all applicable federal, state and local regulations.

Section 16.6 -- Review Procedures

The following outlines the procedures and requirements which must be followed for a development to receive CHPUD approval. Prior to all scheduled Planning Commission or Township Board meetings, the applicant shall submit fifteen (10) copies of the completed site plan with the Zoning Administrator at least twenty-one (21) days prior to the Planning Commission or Township Board meeting at which the site plan is to be considered. The Zoning Administrator shall determine the number of plans the applicant shall provide prior to any scheduled pre-application meeting.

15.6.1 Pre-Application Meeting. An optional pre-application conference can be held with township staff including Township Planner and Township Engineer as determined by the Zoning Administrator to review applicability of the CHPUD ordinance to the proposed site and uses.

15.6.2 Conceptual Review. The applicant may submit a draft site plan for the optional conceptual review by the Planning Commission. The draft site plan shall include as much detailed information as needed for the applicant to convey to the Planning Commission how the applicant would like to utilize the site. Information should include potential building locations, vehicular parking areas, types of uses, road layouts, if applicable, and setbacks from property lines. The conceptual review allows the applicant to present the proposed project to the Planning Commission, at an early stage in the development process, prior to formal submittal of the project. This process allows the developer to receive comments and feedback from the Planning Commission based on the information submitted. No formal action is taken by the Planning Commission at this time

15.6.3 Preliminary CHPUD Site Plan Review and Public Hearing. The applicant prepares and submits a Preliminary Site Plan. The Preliminary CHPUD site plan shall contain enough detail to explain the proposed uses, relationship to adjoining parcels, vehicular and pedestrian circulation patterns, open spaces and landscape areas, and building density or intensity. The Planning Commission shall conduct a public hearing in accordance with Section 3.5.2.B. Following the public hearing, the Planning Commission gives direction to the applicant. The plan is revised, if necessary. The Planning Commission then takes action to recommend approval or denial of the Preliminary CHPUD site plan to the Township Board based upon the Preliminary CHPUD site plan meeting the eligibility requirements as outlined in Section 17.03. A recommendation of approval for the Preliminary CHPUD site plan shall be accompanied by a description of the minimum conditions under which the proposal will be considered for final approval. In describing such conditions, the Planning Commission may identify specific requirements or standards in the Zoning Ordinance which could be waived or modified upon approval of the final CHPUD site plan.

The Township Board shall consider the Planning Commission recommendation and public hearing comments and shall take action to approve, deny or remand the site plan back to the Planning Commission for further review.

15.6.4 Final CHPUD Site Plan Review.

- A. The applicant shall submit a Final CHPUD site plan which contains all information required for site plan review under Section 4.5.6 of the Township Zoning Ordinance and approvals from all appropriate county, state and federal agencies, including, but

not limited to, the Livingston County Road Commission, Livingston County Drain Commissioner, Livingston County Health Department and the Michigan Department of Transportation.

- B. The Planning Commission shall review the submitted Final CHPUD site plan to insure compliance with all standards and criteria of Article 17, Commercial General Planned Unit Development, the Hamburg Township Zoning Ordinance and the Hamburg Township Master Plan, M-36 Corridor Plan, Hamburg Township Village Plan, and the Southeast Livingston County Greenways Plan where applicable. The Planning Commission then takes action to recommend approval or denial of the Final CHPUD site plan to the Township Board based upon compliance with the above referenced standards.
- C. Upon receipt of the report and recommendation of the Planning Commission, the Township Board shall review all findings. If the Township Board determines that approval would be appropriate, it shall instruct the Township Attorney to prepare a contract Development Agreement setting forth the conditions upon which such approval is based. Such conditions shall include, where appropriate, identification of the phases and time table for development, and an estimate of the costs of implementing each phase.
- D. After approval by resolution of the Township Board, the contract Development Agreement shall be executed by the Township and the applicant and recorded in the County records. Approval shall be granted only upon the Township Board determining that all qualification requirements, conditions of approval, and provisions of this and other Township Ordinances have been met, and that the proposed development will not adversely affect the public health, welfare and safety. Approval shall further be subjected to the condition that the contract will be properly recorded.
- E. Approval of a CHPUD site plan shall be effective upon recording the contract and filing proof of recording with the Township Clerk.
- F. Once an area has been included, within the boundaries of an approved CHPUD, no development may take place in the CHPUD except in accordance with the Township Board-approved CHPUD site plan.
- G. Prior to any development within the area involved, an approved CHPUD site plan may be terminated by the applicant or the applicant's successors or assigns, by filing with the Township and recording in the County records an affidavit so stating. The approval of the plan shall terminate upon such recording.
- H. No approved plan shall be terminated after development commences except with the approval of the Township Board and of all parties having an equity interest in the land.

Section 16.6. General Requirements

EXHIBIT
Exhibit C

- A. **Effect of Approval.** Approval of a CHPUD proposal shall not require, nor shall it be an amendment to the zoning ordinance.
- B. **Recording Action.** The applicant shall record a Development Agreement with the Register of Deeds containing the full legal description of the development site, specifying the date of final township approval, and declaring that all improvements will be carried out in accordance with the approved CHPUD 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 Livingston County, and copies of the recorded documents shall be presented to the township.
- C. **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 for an extension, not to exceed twelve (12) months. A maximum of two (2) extensions may be allowed.
- D. **Performance Guarantee.** The planning commission may require a performance guarantee, in accordance with the zoning ordinance.
- E. **Scheduled Phasing.** When proposed construction is to be phased, the development shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, common areas 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 CHPUD and the residents of the surrounding area.
- F. **Timing of Phases.** Each phase of the development 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 16.6 (C).

Section 16.7. Revision of Approved Plans

- A. **General Revisions.** Approved plans for a CHPUD may be revised in accordance with the procedures set forth in Section 16.5.
- B. **Minor Changes.** Notwithstanding Section 16.7 (A), minor changes to an approved CHPUD plan may be permitted by the body which granted the initial approval, following normal site plan review procedures outlined in Article 4.00, "Site Plan Review," 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 CHPUD in light of the intent and purpose of such development as set forth in this Article; and

EXHIBIT
Exhibit C

3. Such changes shall not result in the reduction of CHPUD common areas as required herein.

ARTICLE 167.00

HARDSHIP PLANNED UNIT DEVELOPMENT (HPUD)

~~Effective May 6, 2009~~

Section 167.1. Intent and Purpose.

It is the intent of this article to provide a site specific administrative remedy to allow reasonable use of property in those limited situations in which a property owner demonstrates to the Township Board, after Planning Commission reviews and recommends that (1) the applicant's property cannot be used for the purposes permitted in the zoning district, (2) the plight is due to unique circumstances peculiar to the property and not to the general neighborhood conditions, (3) the proposed development and use would not alter the essential character of the area, and (4) the applicant's problem has not been self-created.

If and when a property owner meets such four-part threshold burden of proof, it is not intended that any use may be approved. Rather, this section is intended to authorize relief for the minimum extent necessary to allow reasonable use of property on the particular site, taking into consideration the objective of achieving compatibility and high quality development.

Section 167.2. Application

Applications for ~~hardship~~ HPUD's authorized in this Ordinance shall be submitted to the Zoning Administrator on a special form supplied by the same for such purposes. Applications shall be accompanied by payment of a fee in accordance with the duly adopted schedule of fees, to cover costs of processing the application. Applications for ~~hardship~~ HPUD's shall be subject to the provisions of ~~Section 3.3. Land Use Permit~~ Article 4, ~~Site Plan Review~~, in addition to the provisions stated herein.

In addition to the information required for ~~Site Plan Review other variance requests~~, an application for a hardship planned unit development shall include a plan drawn to scale, detailing the specific use and improvements proposed by the applicant, and a summary of the facts which support each of the following conclusions:

- A. Applicant's property cannot be used for the purposes permitted in the zoning district.
- B. Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions.
- C. Applicant's suggested use would not alter the essential character of the area.
- D. Applicant's problem has not been self-created.

Exhibit D

At the end of each statement (A through D) identify all persons who will appear and present evidence at the hearing with respect to each of the facts, and, separately, identify all persons who will appear and present evidence at the hearing relative to the respective conclusion.

167.3. Review Procedures

The following outlines the procedures and requirements which must be followed for a development to receive HPUD approval. Prior to all scheduled Planning Commission or Township Board meetings, the applicant shall submit fifteen (10) copies of the completed site plan with the Zoning Administrator at least twenty-one (21) days prior to the Planning Commission or Township Board meeting at which the site plan is to be considered. The Zoning Administrator shall determine the number of plans the applicant shall provide prior to any scheduled pre-application meeting.

17.3.1 Pre-Application Meeting. An optional pre-application conference can be held with township staff including Township Planner and Township Engineer as determined by the Zoning Administrator to review applicability of the HPUD ordinance to the proposed site and uses.

17.3.2 Conceptual Review. The applicant may submit a draft site plan for the optional conceptual review by the Planning Commission. The draft site plan shall include as much detailed information as needed for the applicant to convey to the Planning Commission how the applicant would like to utilize the site. Information should include potential building locations, vehicular parking areas, types of uses, road layouts, if applicable, and setbacks from property lines. The conceptual review allows the applicant to present the proposed project to the Planning Commission, at an early stage in the development process, prior to formal submittal of the project. This process allows the developer to receive comments and feedback from the Planning Commission based on the information submitted. No formal action is taken by the Planning Commission at this time

17.3.3 Preliminary HPUD Site Plan Review and Public Hearing. The applicant prepares and submits a Preliminary Site Plan. The Preliminary HPUD site plan shall contain enough detail to explain the proposed uses, relationship to adjoining parcels, vehicular and pedestrian circulation patterns, open spaces and landscape areas, and building density or intensity. The Planning Commission shall conduct a public hearing in accordance with Section 3.5.2.B. Following the public hearing, the Planning Commission gives direction to the applicant. The plan is revised, if necessary. The Planning Commission then takes action to recommend approval or denial of the Preliminary HPUD site plan to the Township Board based upon the Preliminary HPUD site plan meeting the eligibility requirements as outlined in Section 17.2. A recommendation of approval for the Preliminary HPUD site plan shall be accompanied by a description of the minimum conditions under which the proposal will be considered for final approval. In describing such conditions, the Planning Commission may identify specific requirements or standards in the Zoning Ordinance which could be waived or modified upon approval of the final HPUD site plan.

Exhibit D

- A.** At the Planning Commission public hearing the applicant shall have the burden of proof. In order to be entitled to relief, the applicant must demonstrate each of the four factors set forth in paragraphs A through D of Section 167.2, above.
- B.** **At the Planning Commission public hearing the following shall be the Manner of the Presentation:**
1. Township representatives shall present an overview of the zoning regulations involved. This may include an indication of the objectives sought to be achieved in the zoning district, and any planning, engineering, financial, environmental or other considerations which are generally relevant within the zoning district and/or in the general area of the property at issue.
 2. The applicant may present witnesses, including the applicant or may submit affidavits, for the purpose of attempting to prove facts or conclusions. The applicant shall be provided with the opportunity to present all testimony and evidence proposed to be presented at the pre-hearing conference, either through witnesses or affidavit, however, the chairperson of the Planning Commission may restrict testimony and evidence which would result in unreasonable duplication. In addition, by motion made on its own or at the request of a person at the hearing, the Planning Commission may require the presence of any witness who has offered either testimony by affidavit on a material question of fact or testimony of an expert nature, with the view of permitting members of the legislative body to ask questions of such witnesses.
 3. At the conclusion of the applicant's presentation, interested persons attending the hearing shall be provided with the opportunity to present testimony and evidence in the same manner and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.
 4. When interested persons have completed their presentations, at the same meeting and/or at an adjourned meeting date, testimony and evidence may be presented on behalf of the community in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant. The purpose of such presentation shall be to ensure that a full picture, including all relevant information, is before the legislative body for consideration as it relates to the specific application presented.
 5. If testimony or evidence has been offered by or on behalf of interested persons and/or the community, the applicant shall have the opportunity to make a responsive presentation, restricted to answering the points raised by interested persons and community representatives. The manner of presenting witnesses, and requirement of their presence and questioning, shall be the same as provided above for the applicant's principal presentation.

Exhibit D

6. At the hearing, the Planning Commission may determine to establish other rules of procedure, such as meeting hours on any given day, procedure for presentations by interested persons and/or on behalf of the community, or other rules found to be necessary or appropriate by the Planning Commission. When questions of procedure arise during the hearing, the chairperson of the Planning Commission may solicit the recommendation of the representatives of both the applicant and the community.
 7. If a hearing is not completed at a given meeting within the time period allowed by the Planning Commission, the Planning Commission shall adjourn the hearing to a date certain for continuation.
- C. The Planning Commission may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.
- D. At the conclusion of the hearing, the Planning Commission may make its recommendation at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its recommendation to the Township Board.

Township Board Review. The Township Board shall, within a reasonable time of receiving the ~~hardship~~-HPUD request and the Planning Commission's recommendation, approve, disapprove, or remand the request back to the Planning Commission for further review. The Township Clerk will notify the proprietor of the action taken and state the reasons.

- A. If the Township Board determines to grant a ~~hardship-planned-unit-development~~ HPUD, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area. The motion may include conditions that are authorized by law.
- B. If the Township Board adopts a motion to grant a ~~hardship-planned-unit-development~~ HPUD, such motion may be made as a tentative grant of relief, subject to review by the planning commission, planning director/consultant, engineer or other person or recommendations on any conditions that may be relevant and authorized by law, and for the further purpose of ensuring that the grant of relief would not violate applicable law. If a motion authorizing such a tentative grant of relief is made, the Township Board, in the same motion, should request the completion of all reviews by other boards or persons by a specific date, so that relief may be expeditiously finalized.
- C. If the Township Board adopts a motion to grant ~~hardship-planned-unit-development~~ HPUD under this section, the relief granted shall be in the form of a ~~hardship-planned-unit-development-plan~~ HPUD and use, subject to all specification, terms and conditions included on the plan and in the decision.

17.3.4 Final HPUD Site Plan Review.

Exhibit D

- A. The applicant shall submit a Final HPUD site plan which contains all information required for site plan review under Section 4.5.6 of the Township Zoning Ordinance and approvals from all appropriate county, state and federal agencies, including, but not limited to, the Livingston County Road Commission, Livingston County Drain Commissioner, Livingston County Health Department and the Michigan Department of Transportation.
- B. The Planning Commission shall review the submitted Final HPUD site plan to insure compliance with all standards and criteria of Article 17, Commercial General Planned Unit Development, the Hamburg Township Zoning Ordinance and the Hamburg Township Master Plan, M-36 Corridor Plan, Hamburg Township Village Plan, and the Southeast Livingston County Greenways Plan where applicable. The Planning Commission then takes action to recommend approval or denial of the Final ECHO site plan to the Township Board based upon compliance with the above referenced standards.
- C. Upon receipt of the report and recommendation of the Planning Commission, the Township Board shall review all findings. If the Township Board determines that approval would be appropriate, it shall instruct the Township Attorney to prepare a contract Development Agreement setting forth the conditions upon which such approval is based. Such conditions shall include, where appropriate, identification of the phases and time table for development, and an estimate of the costs of implementing each phase.
- D. After approval by resolution of the Township Board, the contract Development Agreement shall be executed by the Township and the applicant and recorded in the County records. Approval shall be granted only upon the Township Board determining that all qualification requirements, conditions of approval, and provisions of this and other Township Ordinances have been met, and that the proposed development will not adversely affect the public health, welfare and safety. Approval shall further be subjected to the condition that the contract will be properly recorded.
- E. Approval of an HPUD site plan shall be effective upon recording the contract and filing proof of recording with the Township Clerk.
- F. Once an area has been included, within the boundaries of an approved HPUD, no development may take place in the HPUD except in accordance with the Township Board-approved HPUD site plan.
- G. Prior to any development within the area involved, an approved HPUD site plan may be terminated by the applicant or the applicant's successors or assigns, by filing with the Township and recording in the County records an affidavit so stating. The approval of the plan shall terminate upon such recording.

Exhibit D

- H. No approved plan shall be terminated after development commences except with the approval of the Township Board and of all parties having an equity interest in the land.

~~Prior to submitting an application for a Hardship PUD, the applicant shall contact the Zoning Administrator for the purpose of scheduling a pre-application conference. The purposes of the pre-hearing conference shall be to:~~

- ~~1. Review the application procedure and identify all persons who will appear and the evidence to be offered on behalf of the applicant.~~
 - ~~2. Attempt to secure a statement of agreed upon facts to be used to narrow the matters of dispute and shorten the hearing.~~
 - ~~3. Explore a means of providing relief to the applicant by way of non-use variance from the zoning board of appeals.~~
 - ~~4. Discuss the need, desirability, and the terms of providing, a verbatim record of the hearing.~~
- ~~B. The Zoning Administrator shall review the proposed application to determine if all required information has been supplied, and forward completed applications and supporting data in accordance with the provisions of 3.3.2. to the Planning Commission.~~
- ~~C. Upon receipt of the application for a Hardship PUD, the Planning Commission shall hold a public hearing in accordance with the notification requirements described hereafter.~~

~~A notice of the public hearing shall be published in at least one (1) newspaper of general circulation and sent by mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.~~

~~The notice shall be given not less than fifteen (15) days before the date the application will be considered. The notice shall describe the property in question and the nature of the Hardship PUD request; state the time, date, and location of the~~

~~public hearing; and, indicate when and where written comments will be received concerning the request.~~

17.4 General Requirement

- A. **Effect of Approval.** Approval of a HPUD proposal shall not require, nor shall it be an amendment to the zoning ordinance.
- B. **Recording Action.** The applicant shall record a Development Agreement with the Register of Deeds containing the full legal description of the development site, specifying the date of final township approval, and declaring that all improvements will be carried out in accordance with the approved HPUD 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 Livingston County, and copies of the recorded documents shall be presented to the township.
- C. **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 for an extension, not to exceed twelve (12) months. A maximum of two (2) extensions may be allowed.
- D. **Performance Guarantee.** The planning commission may require a performance guarantee, in accordance with the zoning ordinance.
- E. **Scheduled Phasing.** When proposed construction is to be phased, the development shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, common areas 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 HPUD and the residents of the surrounding area.
- F. **Timing of Phases.** Each phase of the development 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 16.6 (C).

~~F. **Effect of Approval:**~~

- ~~1. Approval of a hardship planned unit development under this section shall apply only to the specific plan and use granted, shall be subject to all specifications, terms and conditions included on the plan and in the decision granting the approval. An approval under this section shall not be final until such time as the applicant obtains the final approvals required in subparagraph D of this section, and the applicant records an Affidavit at the office of the Register of Deeds in connection with the property. Such Affidavit shall be in a form approved by the Township Attorney.~~

Exhibit D

- ~~2. An approval under this section shall be effective for a period of one year, and shall thereafter be void unless actual structural improvements have been commenced on the property pursuant to building permit.~~
- ~~3. If the Township Board approves an application, the Zoning Administrator shall have a notation placed on the zoning map providing notice that a hardship planned unit development has been approved on the property.~~

17.5 Revision of Approved Plans

- A. **General Revisions.** Approved plans for a HPUD may be revised in accordance with the procedures set forth in Section 17.3.
- B. **Minor Changes.** Notwithstanding Section 17.7 (A), minor changes to an approved CHPUD plan may be permitted by the body which granted the initial approval, following normal site plan review procedures outlined in Article 4.00, "Site Plan Review," 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 HPUD 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 HPUD common areas as required herein.

ARTICLE 178.00

~~COMMERCIAL-GENERAL~~ PLANNED UNIT DEVELOPMENT (GPUD)

~~Effective May 6, 2009~~

Section 178.1 INTENT

- A. The intent of the ~~Commercial General~~ Planned Unit Development is to permit, with Township approval, private or public development which is substantially in accord with the goals and objectives of the Hamburg Township Master Plan which was adopted by the Planning Commission in June 4, 1997 and may be amended from time-to-time, the M-36 Corridor Plan, which was adopted by the Planning Commission on November 26, 1993 and may be amended from time-to-time, and the Hamburg Township Village Plan, which was adopted by the Planning Commission on December 6, 1995 and which may be amended from time-to-time.
- B. The development permitted under this Article 17.00 shall be considered as an optional means of development. The availability of the option imposes no obligation on the Township to encourage or foster its use. The decision to approve its use shall be at the sole discretion of the Township. Consequently, in this article, the development opportunities made available under this Article may be referred to as the ~~CGPUD~~.
- C. A ~~Commercial~~ GPUD is intended to permit regulatory flexibility to achieve development that is in accord with the Township's Master Plans; to achieve economy and efficiency in the use of land, natural resources, energy and in the provision of public services and utilities; to encourage the creation of useful open space particularly suited to the proposed development and parcel on which it is located; and to provide appropriate ~~housing~~, employment, services and shopping opportunities to satisfy the needs of residents of the Township of Hamburg.
- D. It is further intended that the development of a ~~CGPUD~~ be laid out so that proposed uses, buildings, and site improvements relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.
- E. The ~~CGPUD~~ Option is further intended to permit reasonable development or use of parcels of land that were subdivided and/or developed prior to adoption of the current ordinance, or amendment thereto, and which would otherwise be restricted from development or use because of existing or resulting nonconformities.

Section 178.2 DEFINITIONS

For the purposes of this article, the following definitions shall apply:

- A. ~~Commercial General~~ PLANNED UNIT DEVELOPMENT: The term "~~Commercial General~~ Planned Unit Development" means a specific parcel of land or several contiguous parcels of land, which has been, is being, or will be developed in accordance with a site plan approved

Exhibit E

by the Township Board, following a recommendation from the Planning Commission, where the site plan meets the requirements of this Article, proposing permitted land uses, density patterns, a fixed system of streets (where necessary), provisions for public utilities, drainage and other essential services and similar features necessary or incidental to development.

- B. UNDERLYING ZONING: The term "Underlying Zoning" means the zoning classification assigned in the Hamburg Township Zoning Ordinance to a parcel of land that is proposed to be developed in accordance with the ~~Commercial~~ General Planned Development regulations.
- C. UNDERLYING FUTURE LAND USE: The term "Underlying Future Land Use" means the future land use designation identified in the Township Master Plan, M-36 Corridor Plan or Hamburg Township Village Plan which the Township Planning Commission has determined is applicable to a parcel of land that is proposed to be developed in accordance with the ~~Commercial~~ General Planned Unit Development regulations.

Section 178.3 ELIGIBILITY CRITERIA

In order for a development to qualify as a ~~Commercial~~ General Planned Unit Development, it must be demonstrated that all of the following criteria will be met:

- A. A ~~CGPUD~~ shall promote the goals and objectives of the Township Master Plan, M-36 Corridor Plan and Hamburg Township Village Plan.
- B. A ~~CGPUD~~ shall result in a higher quality of development than could be achieved under conventional zoning.
- C. A ~~CGPUD~~ shall not be created in situations where the same land use objectives can be accomplished by the application of conventional zoning provisions or standards without the need for variances.
- D. A ~~CGPUD~~ may be created only when the proposed land use will not add public service and facility loads beyond those contemplated in the Master Plan or other applicable plans or policies of the Township unless the applicant can demonstrate to the sole satisfaction of the Township Board that such added loads will be accommodated or mitigated by the proponent as part of the ~~CGPUD~~ or by some other means deemed acceptable to the Township Board.
- E. Creation of a ~~CGPUD~~ shall establish land use patterns which are compatible with and protect existing or planned uses.
- F. The use of the ~~CGPUD~~ option shall not be for the purpose of avoiding applicable zoning requirements of the underlying zoning district.
- G. A ~~CGPUD~~ shall not be allowed solely as a means of increasing the density or intensity of development.

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- H. A **EGPUD** shall improve the appearance of the Township through quality building design and site development, the provision of trees and landscaping consistent with or beyond minimum requirements; the preservation of unique and/or historic sites or structures; and the provision of open space or other desirable features of a site beyond minimum requirements.

Section 178.4 PROJECT CHARACTERISTICS

178.4.1 Location. A **EGPUD** shall only be created on development sites within the Township which have a portion of the property located within the Neighborhood Service (NS), Community Service (CS), Mixed Use Development (MD), **Village Residential (VR)**, Village Center (VC) zoning districts or which have a portion of the property designated for commercial future land uses as indicated by the Hamburg Township Master Plan, M-36 Corridor Plan or Hamburg Township Village Plan.

178.4.2 Size. A **EGPUD** shall only be created on development sites one (1) acre in area or greater.

178.4.3 Permitted Uses.

A. Uses that are listed as Permitted Uses or Special Uses in the underlying zoning district or uses identified in the underlying future land use category of the Township Master Plans may be permitted in a **EGPUD** development. Expansion of or renovation to a building containing a use that is not listed as a Permitted Use or Special Use may be permitted by the Planning Commission upon making the determination that:

- (1) The use has operated and will continue to operate in a manner that is compatible with surrounding and nearby land uses;
- (2) The proposed expansion or renovation will not impair the efforts of the Township and property and business owners and residents to further the goals and objectives of the Township Master Plans; and
- (3) The proposed expansion or renovation will have a recognized and substantial beneficial impact as a result of improved building design, site improvements that are consistent with design guidelines set forth in Section 17.05 and the Township Master Plans, improved traffic and transportation patterns or other benefits.

B. Uses that are listed as Permitted Uses or Special Uses in the Village Center (VC) zoning district may be permitted in the **EGPUD**, with the exception that residential uses as described in the Village Center (VC) shall not be permitted in a **EGPUD** located outside the Village Center (VC) or **Village Residential (VR)** zoning districts. Upon the determination that the inclusion of residential uses shall aid the **EGPUD** in meeting the eligibility criteria stated in Section 17.03, residential uses shall comply with the density requirements of the underlying zoning district or master plan designation.

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- C. The Township Board shall make the final determination, based on the recommendation of the Planning Commission, as to whether a specific use may be permitted in the CGPUD subject to compliance of the proposed uses with the eligibility criteria of Section 17.03 and approval of a site plan, pursuant to the review procedures in Section 17.06.

178.4.4 Regulatory Flexibility.

- A. A **EGPUD** proposal shall comply with the height, bulk, density, and setback standards of the underlying zoning district except as specifically modified and noted on the **EGPUD** site plan. Uses listed as Special Uses shall be subject to applicable height, bulk, density, area and use standards in Section 3.5 of the Zoning Ordinance, unless such standards are modified and noted on the **EGPUD** site plan.
- B. The Township Board may approve modification or waiver of one or more standards of the underlying district or standards for Special Uses, after reviewing the recommendation of the Planning Commission, upon making the determination that any such modification or waiver would be consistent with the land use goals and objectives of the Township and the intent of this Article, and upon making the determination that the modification or waiver would be appropriate because of the particular design and orientation of buildings and uses. Any regulatory modification shall be approved by the Township Board based upon 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 a **EGPUD** plan may be appealed to the Zoning Board of Appeals.
- 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 **EGPUD** 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.

Section 178.5 -- DESIGN STANDARDS

A **EGPUD** development must meet the intent and guidelines related to site design as stated in the Site Design Chapter of the M-36 Corridor Plan, and the Village Design Chapter of the Hamburg Township Village Plan, where applicable. Along with other appropriate site design standards, guidelines, and principles, the following site development elements shall also be reviewed for consistency with the applicable guidelines of the Village Center and M-36 Corridor Plans:

- A. Sidewalks/Pedestrian Circulation
- B. Parking/Loading Areas
- C. Architecture
- D. Signs

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- E. Street and Access Design
- F. Lighting
- G. Landscaping

Section 178.6 -- REVIEW PROCEDURES

The following outlines the procedures and requirements which must be followed for a development to receive **EGPUD** approval. Prior to all scheduled Planning Commission or Township Board meetings, the applicant shall submit fifteen (105) copies of the **completed** site plan with the Zoning Administrator at least twenty-one (21) days prior to the Planning Commission or Township Board meeting at which the site plan is to be considered. The Zoning Administrator shall determine the number of plans the applicant shall provide prior to any scheduled pre-application meeting.

178.6.1 Pre-Application Meeting. An optional pre-application conference can be held with township staff including Township Planner and Township Engineer as determined by the Zoning Administrator to review applicability of the **EGPUD** ordinance to the proposed site and uses.

178.6.2 Conceptual Review. The applicant **may** submit a **draft** site plan for **the optional** conceptual review by the Planning Commission. The **draft** site plan shall include as much detailed information as needed for the applicant to convey to the Planning Commission how the applicant would like to utilize the site. Information ~~must~~ **should** include potential building locations, vehicular parking areas, types of uses, road layouts, if applicable, and setbacks from property lines. **The conceptual review allows the applicant to present the proposed project to the Planning Commission, at an early stage in the development process, prior to formal submittal of the project. This process allows the developer to receive comments and feedback from the Planning Commission based on the information submitted.** No formal action is taken by the Planning Commission at this time. ~~The Planning Commission may set a public hearing date.~~

178.6.3 Preliminary **EGPUD Site Plan Review and Public Hearing.** The applicant prepares and submits a Preliminary Site Plan ~~based upon comments by the Planning Commission on the conceptual site plan.~~ The Preliminary **EGPUD** site plan shall contain enough detail to explain the proposed uses, relationship to adjoining parcels, vehicular and pedestrian circulation patterns, open spaces and landscape areas, and building density or intensity. The Planning Commission shall conduct a public hearing in accordance with Section 3.5.2.B. Following the public hearing, the Planning Commission gives direction to the applicant. The plan is revised, if necessary. The Planning Commission then takes action to recommend approval or denial of the Preliminary **EGPUD** site plan to the Township Board based upon the Preliminary **EGPUD** site plan meeting the eligibility requirements as outlined in Section 17.03. A recommendation of approval for the Preliminary **EGPUD** site plan shall be accompanied by a description of the minimum conditions under which the proposal will be considered for final approval. In describing such conditions, the Planning Commission may identify specific requirements or standards in the Zoning Ordinance which could be waived or modified upon approval of the final **EGPUD** site plan.

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The Township Board shall consider the Planning Commission recommendation and public hearing comments and shall take action to approve, deny or remand the site plan back to the Planning Commission for further review.

17.6.4 Final ~~CG~~PUD Site Plan Review.

- A. The applicant shall submit a Final ~~CG~~PUD site plan which contains all information required for site plan review under Section 4.5.6 by ~~Section 4.4.2~~ of the Township Zoning Ordinance and approvals from all appropriate county, state and federal agencies, including, but not limited to, the Livingston County Road Commission, Livingston County Drain Commissioner, Livingston County Health Department and the Michigan Department of Transportation.
- B. The Planning Commission shall review the submitted Final ~~CG~~PUD site plan to insure compliance with all standards and criteria of Article 17, ~~Commercial General~~ Planned Unit Development, the Hamburg Township Zoning Ordinance and the Hamburg Township Master Plan, M-36 Corridor Plan, Hamburg Township Village Plan, and the Southeast Livingston County Greenways Plan where applicable. The Planning Commission then takes action to recommend approval or denial of the Final ~~CG~~PUD site plan to the Township Board based upon compliance with the above referenced standards.
- C. Upon receipt of the report and recommendation of the Planning Commission, the Township Board shall review all findings. If the Township Board determines that approval would be appropriate, it shall instruct the Township Attorney to prepare a ~~contract~~ Development Agreement setting forth the conditions upon which such approval is based. Such conditions shall include, where appropriate, identification of the phases and time table for development, and an estimate of the costs of implementing each phase.
- D. After approval by resolution of the Township Board, the ~~contract~~ Development Agreement shall be executed by the Township and the applicant and recorded in the County records. Approval shall be granted only upon the Township Board determining that all qualification requirements, conditions of approval, and provisions of this and other Township Ordinances have been met, and that the proposed development will not adversely affect the public health, welfare and safety. Approval shall further be subjected to the condition that the contract will be properly recorded.
- E. Approval of a ~~CG~~PUD site plan shall be effective upon recording the contract and filing proof of recording with the Township Clerk.
- F. Once an area has been included, within the boundaries of an approved ~~CG~~PUD, no development may take place in the ~~CG~~PUD except in accordance with the Township Board-approved ~~CG~~PUD site plan.

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- G. Prior to any development within the area involved, an approved CGPUD site plan may be terminated by the applicant or the applicant's successors or assigns, by filing with the Township and recording in the County records an affidavit so stating. The approval of the plan shall terminate upon such recording.
- H. No approved plan shall be terminated after development commences except with the approval of the Township Board and of all parties having an equity interest in the land.

~~I. Site plan approval granted pursuant to approval of a CGPUD Plan shall remain valid for a period of two (2) years from the date of approval. If required Township permits have not been issued and work lawfully commenced within this two (2) year period, the Township Board may terminate and revoke the CGPUD plan approval and contract by written notice to the owner and recording an affidavit in the county records.~~

Section 18.7. General Requirements

- A. **Effect of Approval.** Approval of a GPUD proposal shall not require, nor shall it be an amendment to the zoning ordinance.
- B. **Recording Action.** The applicant shall record a Development Agreement with the Register of Deeds containing the full legal description of the development site, specifying the date of final township approval, and declaring that all improvements will be carried out in accordance with the approved GPUD 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 Livingston County, and copies of the recorded documents shall be presented to the township.
- C. **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 for an extension, not to exceed twelve (12) months. A maximum of two (2) extensions may be allowed.
- D. **Performance Guarantee.** The planning commission may require a performance guarantee, in accordance with the zoning ordinance.
- E. **Scheduled Phasing.** When proposed construction is to be phased, the development shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, common areas 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 GPUD and the residents of the surrounding area.
- F. **Timing of Phases.** Each phase of the development 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,

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approval of the plan shall become null and void, subject to the requirements of Section 16.6 (C).

Section 18.8 Revision of Approved Plans

- A. **General Revisions.** Approved plans for a GPUD may be revised in accordance with the procedures set forth in Section 16.5.
- B. **Minor Changes.** Notwithstanding Section 16.7 (A), minor changes to an approved CHPUD plan may be permitted by the body which granted the initial approval, following normal site plan review procedures outlined in Article 4.00, "Site Plan Review," 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 CHPUD 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 CHPUD common areas as required herein.

~~**17.6.5 Amendments to CGPUD Site Plan.** Proposed amendments or changes to an approved CGPUD site plan shall be submitted to the Zoning Administrator. If the Zoning Administrator shall determine if that the proposed amendment is considered a modification is a minor amendment or modification based on the criteria in Article 4 Site Plan Review, Section 4.9 Site Plan Review for Minor Projects and Modifications. If the Zoning Administrator determined that the project is a Minor Project or Modification then the Zoning Administrator may follow the procedures for a minor site plan amendment outlined in Section 4.98.6 shall be followed. If the minor site plan amendment does not meet administrative approval or the Zoning Administrator determines the proposed modification is not minor, and if the applicant then requests further consideration, then the site plan shall be reviewed by the Planning Commission and Township Council in accordance with the provisions and procedures of this Section as they relate to final approval of the Commercial General Planned Unit Development.~~

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To: Planning Commissioners
From: Scott Pacheco
Date: May 15, 2019
Agenda Item: 7(2)
Re: ZTA19-002 Fence Regulations in Article 8, Section 8.15

History:

In early 2016 Hamburg Township Board approved revisions to the Fence Regulation in the Township Zoning Ordinance. The revisions were done in an attempt to clarify the requirements of the code in an attempt to make the regulations easier to understand and to enforce. These regulations:

- 1) added a description of how to measure the height of a fence,
- 2) added an exemption to allow deer fencing around private gardens,
- 3) added figures that clarify the code regulations,
- 4) revised the regulations to use the main building or accessory structure to determine the location of a six foot fence;
- 5) added a provision that also regulates the design of 4 foot fences to make them less obtrusive and better preserve the views and scenic appearance of the township; and
- 6) created regulations so all properties that share property lines will be allowed to build the same size fences in the same locations.

Project Description:

The current proposed zoning text amendment are again another attempt to further clarify the fence regulations. The main proposed revisions will:

- 1) Eliminate the ability to build an 8 foot fence in your rear yard, and
- 2) Further clarify the location and height of permitted fences on properties that abut a lake, river, or wetland area.

By removing the provisions to allow eight foot high fences in rear yards, it allow all fences to either be a maximum of four feet in height and 50% open in the front yard of the subject property or a maximum of six feet in height if the fence is not within the front yard of the subject property. (Section 8.15.3 A and B)

There are still some exceptions to these maximum height but the proposed revisions to the regulations more clearly organizes and defines these exceptions (Section 8.15.3 C)

I have included the definition of yard to help facilitate the discussion of the fence regulations as Front, Rear and Side Yards are commonly used terms throughout these regulations.

“YARD: An open space on the same lot with a building unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building or structure.

- a. Front Yard: A yard extending across the front of the lot between the side lot lines and measured between the front line of the lot and the nearest point of the building,*
- b. Rear Yard: A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies, or unenclosed porches. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yards shall be in all cases at the opposite end of the lot from the front yard.*
- c. Side Yard: A yard between the side lot line and the nearest side line of the building and extending from the rear line of the building to the front line of the building.”*

Recommendation:

The Planning Commission should review and discuss the proposed changes to the fence regulations. The Planning Commission should then direct staff to notice and bring back the draft revisions with any corrections to the next planning commission hearing.

Exhibit A: Proposed Amendment to Section 8.15

ARTICLE 8.00
SUPPLEMENTARY PROVISIONS
Section 8.15 Fences, Walls and Screens

Section 8.15.1 All fences, walls and other protective barriers (referred to in this section as “fences”) of any nature, description located within any district of Hamburg Township shall meet all of the following regulations:

A. All structures shall be located entirely on or within the lot lines of the lot upon which they are located; and shall not be located within any public road right-of-way or private road easement. Fences on any corner lot must also comply with the setback requirements of Section 8.15, Intersection Visibility.

B. Fences shall consist of materials commonly used in conventional fence construction, such as wood or metal. Razor wire shall not be permitted. Fences, which carry electric current shall be permitted only in conjunction with the raising and keeping of horses or other domesticated animals permitted under Section 7.7.1. Barbed wire may be permitted in industrial districts, provided that the barbed wire is at least six (6) feet above ground.

C. If, because of the design or construction, one side of the fence has a more finished appearance than the other, the side of the fence with the more finished appearance shall face the exterior of the lot.

D. A fence shall not be erected where it would prevent or unreasonably obstruct the use of adjacent property or the safe use of an existing driveway or other means of access to adjacent property.

E. Fences shall be erected in a manner to allow emergency access to the rear yard of a lot by placing a gate and providing sufficient space between the building line of any structure and the fence on at least one-side of the yard.

F. Fences shall be maintained in good condition. Rotten or broken components shall be replaced, repaired, or removed. As required, surfaces shall be painted, stained, or similarly treated.

G. The height of a fence shall be measured from the point at which the fence posts, pilasters or footing intersects the ground on the lowest side of the fence to the top of the fence directly above. Where a fence is built on top of a wall, the combined fence/wall height is measured from the lowest grade to the top of the fence directly above. A fence may slightly exceed the height limits due to minor variations in the underlying terrain as determined by the Zoning Administrator.

Section 8.15.2. In addition to the standards of Section 8.15.1 all fences, walls, or other screening structures, other than necessary retaining walls, located within a single-family residential district shall not exceed the following maximum heights described herein and graphically depicted in figures 1-9

Section 8.15.3.

A. Any fence located within the front yard-area may not exceed a maximum height of four (4) feet. For the purposes of the fence regulations a corner lot shall be considered to have front yards areas along each of the roadways. All fences in the front yard shall be 50% open (examples: Split Rail, Picket, or wrought iron fences). In no case shall a fence greater than 4 feet be located in the minimum front setback for the zoning district.

B. Any fence located outside of a front yard-area may have a maximum height of six (6) feet ~~except for a fence located in a rear yard along the rear lot line without street frontage where a fence may have a maximum height of eight (8) feet.~~

C. The following are exceptions to Section 8.15.3 A and B:

~~C. 1.~~ Where lots abut a water body:

a. No fence shall be permitted in the required lake or river setbacks in section 7.6.1 (footnote 3) ~~waterfront yard between the shoreline and the required waterfront yard setback, other than railings as permitted under Section 8.18.9 All other fences may have a maximum height of six (6) feet. (See Figure 6)~~

b. Any fence located between the Ordinary High Water Mark of the water body and the principal building ~~and any fence between building closest to the roadway or required setback for the building whichever is further and the roadway easement may~~ shall not exceed a maximum height of four (4) feet ~~and shall be 50% open.~~

~~D. 2.~~ No Fence shall be permitted in a wetland area.

3. On all lots where the ~~side or~~ front yard space of a subject lot abuts ~~the property lines in the side or rear yard of one or more adjoining lots,~~ the height of the fence on the subject lot shall not exceed eight ~~may be six (6)(8)~~ feet along that portion of the common ~~lot~~ property line. (See Figure 2)

~~E. On all lots where the front yard space of a lot abuts side yard or rear yard space along the side property line of one or more adjoining lots, the height of the fence shall not exceed six (6) feet along that portion of the common lot line. (See Figure 2 and 6)~~

~~F3. Required four (4) foot high fences must be made to be 50% open. (Examples: Split rail, picket and wrought iron fences)(See Figure 9).~~

~~G4.~~ Wire fences used to contain livestock and farm animals are exempt from height requirements.

~~H5.~~ Wire fences used around gardens or crops are exempt from height requirements if they are made to be 75% open materials, and are over 75 feet from the closest property line, water body, or wetland area.

Revise Figures 1-8 to match new regulations