

FAX 810-231-4295
PHONE 810-231-1000

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

**Planning Commission
Hamburg Township
10405 Merrill Rd., P.O. Box 157
Hamburg Township, Michigan 48139
June 19, 2019
7:00 p.m.**

1. CALL TO ORDER:

Present: Goetz, Hamlin, Leabu, Muck, Muir & Priebe
Absent: Koeble
Also Present: Scott Pacheco, Township Planner

2. PLEDGE TO THE FLAG:

3. APPROVAL OF THE AGENDA:

Motion by Priebe, supported by Muir

To approve the agenda as presented

Voice vote: Ayes: 6 Nays: 0 Absent: 1 MOTION CARRIED

4. APPROVAL OF MINUTES:

Commissioner Hamlin stated that on Page 2 of the minutes, "Closed the Public Hearing" should read "Closed the call to the public"

Motion by Muir, supported by Priebe

To approve the minutes of the May 15, 2019 meeting as amended

Voice vote: Ayes: 6 Nays: 0 Absent: 1 MOTION CARRIED

5. CALL TO THE PUBLIC:

Chairman Goetz opened the call to the public for any item not on the agenda.

Michelle Ormanian of 9497 Huron Rapids Drive read a statement to the Commission regarding a proposed 160 unit high density development known as Water's Edge Village on the 95 acre field on Winans Lake Road. She stated that hundreds of residents opposed this development on the legal basis that it was not consistent with our Master Plan nor our Open Space Ordinance. She further discussed the need to modify our Open Space Ordinance regarding density and regulatory flexibility. She stated that they are strongly opposed to the two density bonuses that are existing within the ordinance and the proposal to further increase the density bonuses. The legal basis for their opposition is that they are not consistent with the Michigan Zoning Enabling Act. She stated that density bonuses threaten our rural characteristics and natural resources and place unnecessary increased demand on our infrastructure. She further

discussed the Act. She discussed the characteristics of the 95 acre parcel and the previously proposed development. The intent of the Michigan Zoning Enabling Act is to encourage the preservation of open space. It is not intended for ignoring or circumventing the underlying zoning by adding additional dwelling units. They demand that the Commission fulfill their legal and ethical obligations to the residents of Hamburg Township by removing these density bonuses included in the Open Space PUD Ordinance.

Bob Finn of 8610 Tamarack Drive stated that he has two problems with the ordinance. 1) Article 14, Section 14.1.1 still states in part that the intent of a PUD is to ensure the permanent preservation of open space, agricultural lands and other natural resources. This sounds good until you look at what actually takes place. It allows for high development to be spread over a large portion of a property and does little or nothing to preserve these features. He further discussed the previous proposal. 2) An automatic bonus is still being added just for presenting a parallel plan without the Township receiving anything in return. He further discussed the benefit to the developer.

Hearing no further public comment, the call was closed.

6. NEW BUSINESS:

- A. ZTA19-003 Public Hearing to consider the proposed revision to the regulations regarding Group Day Care Homs, Child Care Centers and Day Care Homes in Section 8.7 of the Township Zoning Ordinance. The revision would allow the Planning Commission to determine the required size of a lot and the size of the fenced in play area for a Child Care Center if a Special Use Permit is required for the use. This ZTA would also allow Child Care Centers as an allowed Special Use in the Village Center zoning district under Section 7.5.1 Schedule of Use Regulations (o) VC-Village Center District

Scott Pacheco, Township Planner, stated that this is a zoning text amendment that has been applied for by IXL Learning Center.

Jennifer Moss, 547 W. Main Street, Northville, MI stated that in 2002 a four-room center was opened in the Hamburg Professional building. She purchased the business in 2004 and did some renovations as well as took over some additional space. They did not go to the Township at that time because they were not doing anything structurally. It is an 11,000 square foot building of which they currently have approximately 9,000 square feet. They want the building to themselves for safety reasons for the children with no public entry.

Pacheco stated that his review letter provides some history and what needs to occur to bring them into compliance. Their existing use does not comply because they did not pull permits for the expansion. The 11,000 square foot building will be childcare, and originally approved was 3,850 square feet under the special use permit of 2001. Under the original approval, it was 16 infants, 18 toddlers and 24 children. Under the new proposal, it would be 50 infants, 50 toddlers and 80 children. They will need to do an amendment to the special use permit, however that is not what is front of us tonight. What is before us tonight is an amendment to allow them to ask for a special use permit without getting a variance. There are regulations in our code that this facility could not meet based on the numbers. There are some suggested changes to our ordinance based on a permit for a special use permit. Childcare facilities are allowed in a few different zoning districts. Some they are allowed by right, and some are allowed under special use permit. With a special use permit, the Planning Commission can look at the outdoor area and how it is going to be used. You cannot write an ordinance for every situation when you do not have discretionary review. With a special use permit, you do have discretionary review. The State Law does have requirements also. He stated that under the Village Center zoning district, childcare is not one of the permitted uses or special use. He is suggesting to add it as a special use. It makes sense to have it in that area. If you are going to create a village center area where you want the most density, there are children to be taken care of. We know there is a need for this use otherwise they would not be expanding to four times their original size.

Discussion was held on how the use was approved originally. Pacheco stated that it is unclear what occurred at the time. Possibly they combined it with another service type use. Because this is laid out where this type of use would not be permitted, that would not be a clean way to permit this type of use. We are trying to correct the approval process, but also correct the use in the zoning district.

Pacheco reviewed the proposed language including what the applicant proposed as well as his proposed language after discussion with the Township Attorney. He stated that this amendment allows the Planning Commission to review childcare and daycare facilities that have special use permits discretionarily. It allows the Commission to change the requirements of 8.7 based on that discretionary hearing process, which is a requirement of the special use permit anyway.

Discussion was held on the State Law requirements. The question was asked what the applicant would have to do if her enrollment changes between the number of infants versus toddlers, etc. Pacheco stated that she would have to change her special use. She is asking for the maximum that the building would allow. He stated that is not before us tonight. If this language is approved tonight, it will have to go to the Livingston County Planning Commission and then it will have to be approved by the Township Board. It will then have to be published in the newspaper before it becomes effective. After that, the Commission can hear her special use permit amendment. She will not need a site plan because she is not changing anything on the exterior of the building.

The question was asked if the State reviews the expansion. Ms. Moss stated that they work very closely with the State. She discussed the annual inspection process.

Discussion was held on these facilities in residential districts. Pacheco stated that the only place that group daycare and childcare facilities are allowed are not in the residential districts other than the Village Residential. There are smaller similar uses that are allowed by right in residential districts because of the State requirements and others that are allowed with special use permits within the residential districts.

Chairman Goetz opened the public hearing. Hearing no response, the hearing was closed.

Discussion was held on eliminating the language pertaining to the lot area and simply requiring everyone to go through the special use process. It was stated that the Commission could then look at those items rather than putting all the different variables in the language. Discussion was held on the process for approving such a use in the Neighborhood Service district. It was discussed changing that language to require a special use permit. Pacheco stated that he feels that it would be better if they were all done the same way. That way you are not treating one area different from another. Discussion was held on the various zoning districts.

The Commission discussed the proposed language.

Motion by Priebe, supported by Muck

To recommend approval to the Township Board the proposed revision to the regulations regarding Group Day Care Homes, Child Care Centers and Day Care Homes in Section 8.7 of the Township Zoning Ordinance as reviewed and amended tonight including the inclusion of these uses as a special use in the Village Center District, Village Residential, Commercial Service and Neighborhood Service District

Voice vote: Ayes: 6 Nays: 0 Absent: 1 MOTION CARRIED

7. OLD BUSINESS:

- 1) ZTA19-004 - Discussion of proposed amendment to the Planned Unit Development regulations in Articles 13, 14, 15, 16, 17, and 18

Scott Pacheco, Township Planner, stated that at the last meeting he was directed by the Commission to make some changes to the proposal. He discussed the Zoning Enabling Act that was brought up earlier in the meeting and the difference between the open space preservation requirement that is required for all Townships that allow two or fewer units per acre. Under that section, the Township is required to allow open space preservation. That is different than the planned unit development section. He read that section from the Act. He further explained the differences between those sections and the regulatory flexibility as long as it encourages innovation in land use, variety of

design, layout, type of structures, preserves open space, shopping opportunities, employment, better housing, etc. and is suited for the needs of the residents of the Township. It is a way to allow regulatory flexibility to get a better project for the community as a whole. What we have before us tonight is the Planned Unit Development regulations. Unfortunately, we called them open space planned unit development regulations so people confuse that with open space preservation regulations. We had the open space regulations in our Open Space Planned Unit Development ordinance, but we were lacking the requirement of the 50% land use. That has been changed, and we are now in compliance with the State regulations. He stated that there was a question earlier about why we just talk about the residential Planned Unit Development, not Commercial. He stated that you wouldn't have an open space planned unit development in your downtown area. That is why the general planned unit development ordinance would cover the commercial and industrial districts. The open space preservation ordinance deals with much larger, lower density parcels.

Pacheco reviewed the proposed changes to the ordinance and the consolidation of the process. He discussed the review procedures.

The question was asked regarding the hardship PUD. Pacheco stated that we have eliminated that based on the Township Attorney's suggestion.

Commissioner Hamlin stated that after the discussions at the last meeting and having further thought, he is not in favor of the bonus for the installation of sewers. He feels that should be part of the 15% for exemplary. Most developers would be doing that for their own benefit, and he does not see a reason to give them an extra 15% for that. Further, he stated that he is not in favor of calling an alley a part of an open space. Finally, he stated that the cost to the developer should not be used as a reason to consider a project exemplary.

Discussion was held on the density of the existing open space developments. Pacheco stated that none of them asked for the "exemplary project" bonus.

Further discussion was held on bonus for sewers. Discussion was held on gravity fed sewer qualifying for an additional bonus. Discussion was held on the cost to the developer versus the cost for grinder pumps.

Commissioner Muck agreed that the cost to the developer should not be considered in determining the exemplary project. Discussion was held on a possible public amenity that could be considered without considering the cost.

Discussion was held on adding that all exemplary projects will have sewer & a minimum 60% open space.

Discussion was held on alleys being considered part of the open space. Discussion was held on incentivizing alleys. It was stated that alleys allow for a smaller impervious surface. It was stated that an alley could be a part of an exemplary feature, but there is no benefit to the community. It was stated that you would then require 60% open space and alleys to be an exemplary project. The consensus was to take alleys out of open space and move it to exemplary.

Further discussion was held on sewers. It was stated that with sewers, you can have a smaller lot size. Therefore, a larger open space would be required.

Pacheco stated that there is no motion needed tonight. He will take it back and revise it one more time. He will notice it again for a public hearing at the next meeting as long as we do not have a problem with a quorum, etc. then it would be August. It would then go to the Livingston County Planning Commission then Township Board for final review and approval. The fence ordinance and ordinance to change the ZBA approval will also be part of that.

8. ZONING ADMINISTRATOR'S REPORT:

Pacheco stated that we are going to be looking for a Planning Commission Chair. It is Fred Goetz's last meeting. He thanked him for his years on the Commission. Chairman Goetz stated that he appreciates everyone's hard work.

Pacheco stated that Chilson Commons is working on a Zoning Text Amendment. They are the only hardship PUD in the Township. They are probably going to ask for an amendment to their underlying zoning from Waterfront Residential to Community Service, which is what it is in our Master Plan. Their hardship PUD would have to be amended. We have not seen their proposal yet.

9. ADJOURNMENT:

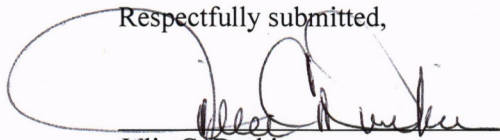
Motion by Leabu, supported by Priebe

To adjourn the meeting

Voice vote: Ayes: 6 Nays: 0 Absent: 1 MOTION CARRIED

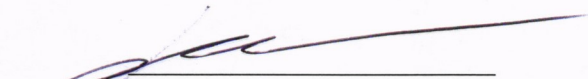
The Regular Meeting of the Planning Commission was adjourned at 9:02 p.m.

Respectfully submitted,



Julie C. Durkin
Recording Secretary

The minutes were approved as presented/Corrected: _____



~~Fred Goetz, Chairperson~~
Jeff Muck

