



**Hamburg Township
Planning Commission
Hamburg Township Board Room
Wednesday, March 18, 2020 7:00 P.M.**

AGENDA

- 1. Call to order**
- 2. Pledge to the Flag**
- 3. Approval of the Agenda**
- 4. Approval of Minutes**
 - a) February 19, 2020 Planning Commission Meeting Minutes
 - b) February 26, 2020 Planning Commission Joint Meeting Minutes
- 5. Call to the Public**
- 6. Old Business**
- 7. New Business**
 - a) **OSPUD 20-001** Amendment to the Mystic Ridge Planned Unit Development approved by the Township Board on May 21, 2002. The amendment requests would if approved, change the approval language for the PUD requiring Scully Road to be open for public automobile traffic prior to issuance of 98 land use permits.
 - b) **ZTA 20-001 Minimum House Size** Discussion and review of possible Zoning Text Amendment to revise the required minimum house size regulations in sections 7.6.1 *Schedule of Area, Height, and Bulk Regulations* and section 8.5 *Single-Family Dwellings, Mobile Homes, Prefabricated Housing*
- 8. Zoning Administrator's Report**
- 9. Adjournment**



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**Planning Commission
Hamburg Township
10405 Merrill Rd., P.O. Box 157
Hamburg Township, Michigan 48139
Wednesday, February 19, 2020
7:00 P.M. 7:00 p.m.**

1. CALL TO ORDER:

Present: Bohn, Hamlin, Koeble, Muck, Muir & Priebe

Absent: Leabu

Also Present: Scott Pacheco, Township Planner, Amy Steffens, Planning & Zoning Administrator, & Brittany Stein, Zoning Coordinator

2. PLEDGE TO THE FLAG:

3. APPROVAL OF THE AGENDA:

Commissioner Muir questioned the Site Plan Review request for a 300-person wedding barn. Township Planner Pacheco stated that the original request was for 300 people, but we revised it under the Special Use Permit to only allow 200 people. Old Business (a) was revised to a 200-person wedding barn.

Motion by Priebe, supported by Muir

To approve the agenda as amended

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

4. APPROVAL OF MINUTES:

a) November 20, 2019 Planning Commission minutes

Motion by Koeble, supported by Priebe

To approve the minutes of the November 20, 2019 meeting as presented

Voice vote: Ayes: 5 Nays: 0 Absent: 1 Abstain: 1 MOTION CARRIED

5. CALL TO THE PUBLIC:

Chairman Muck opened the call to the public. Hearing no response, the call was closed.

6. OLD BUSINESS:

- a) Site Plan Review (SPR 18-002) application to consider allowing a major agricultural commercial/tourism business on the 98-acre property at 5550 Strawberry Lake Road (TID 15-34-200-003). The proposed business will include a u-pick apple orchard, u-pick pumpkin patch, corn-maze, raised gardens, nature-based kid play area, hiking trail, a sign, a farm market retail/restaurant structure, a 200-person wedding barn, and other agricultural based amenities.

Scott and Lauren Tharp, applicants, were present as well as their engineer and individuals involved with the traffic study. Ms. Tharp stated that at the last meeting, the Planning Commission sent them away with some homework. They have spent some time putting together those items which have been presented including plans for the wedding barn, a letter from the Livingston County Health Department, and an updated plan for the farm market. She also indicated that this fall she worked at a local cider mill to learn their business and gained insight and knowledge. She stated that after working there, they did revise their plan for the farm market to enlarge it to host people comfortably and provide seating. At the last meeting, there was some concern about traffic, and it was suggested that they compare the projected use of their farm to a 40-unit single family development, which would be the size of a development on their property. She discussed the lighting and their photometric plan. She stated that this is a large undertaking which they do not intend to complete in 1-2 years. Their plan is to start with the farm market and kids' area and would like to start their crops with pumpkins and berries. They are hoping in 2-3 years to begin the wedding barn. During that time period they would begin with the apple orchard, which does take time to develop.

Planner Pacheco stated that the Special Use Permit was approved by the Planning Commission in December 2018 including a u-pick operation, corn maze, kids area, hiking trails, a farm market with a retail structure as well as a 200 person wedding barn and other agricultural based amenities. Also approved was the main sign at a height of 13.5 feet above grade, a temporary sign that can be displayed for more than 45 days per calendar year and the maximum number of 30 events allowed per year in the wedding barn. These were all waivers to the Agriculture/Tourism regulations approved as part of that special use permit. At that time, the Planning Commission asked the applicant to bring back some additional information so they could review the site plan. Since that time, they have provided that information. They have also provided a traffic study. When the original application came before the Planning Commission, there were 13 people that spoke, and we received 8 letters both for and against the project. Most of the concerns discussed were noise, traffic and lighting. The study showed that at times there would be more traffic on the roadways than a 40-unit single-family development, but overall it would be less. He reviewed his staff report with most of the changes to the lighting and architecture of the structure. He has also provided a proposed motion written by the Township Attorney. The Special Use Permit and Site Plan are combined as one item.

Commissioner Bohn stated that the applicant has indicated that certain aspects of the site plan would not be completed for a couple years and asked if they would be protected under the site plan so that they would not have to come back to the Planning Commission for additional approvals. Pacheco stated that as long as they have started the project, they can continue.

Discussion was held on the entrance sign and the Fire Department requirement of being over 13.5 feet.

Commissioner Hamlin questioned the inclusion of the word restaurant. He further stated that he understands that there will be eating of donuts and ice cream, which is fine. He does not want to include the word restaurant as that implicates a much different use.

Commissioner Hamlin stated that the patio is open with no roof. He stated that the lighting for that patio is not on the photometric plan. He discussed his concerns about the Generac lighting. His concern is that they can light up 5-7 acres. He would not agree with this type of lighting. Chairman Muck stated that he would agree. He stated that these portable lights can be a noise and aesthetic issue. It could also become an enforcement issue. He would prefer to see lighting on timers. Mr. Tharp stated that it was a challenge to come up with a solution. There are times when more light is needed and other times less light is required. Portable lights seemed to serve the purpose of adequately lighting the space. When you look at permanent pole type lights for the parking area, you end up with a lot of light poles in the middle of this area. From an aesthetic perspective, they felt that the portable lights would be preferred

because at the end of the season they can be removed and stored so that everything is aesthetically pleasing. Their intent is to appropriate light it, still meet the noise ordinance, but not light up the whole thing when not required. Ms. Tharp stated that these lights can also be set at different vertical limits. Township ordinance says no higher than 15 feet, and they have written that into their photometric plan. Discussion was held on the potential lumens. Commissioner Hamlin stated that he is okay with portable lights, just not these lights. Pacheco discussed the code requirements and stated that these lights may not be able to meet those requirements. The applicant will have to find a portable light to meet those requirements. Mr. Tharp stated that their intent was to find something the least impactful to the community and still serve the purpose and still meet the code. They would be happy to look at other options. Pacheco stated that the Commission could approve portable or not portable and they can work with staff to find lighting that meets the code requirement. Further discussion was held on lighting options.

Commissioner Hamlin stated that there was no floor plan for the second story. Ms. Tharp stated that it is simply a loft approximately 1/3 the size of the wedding barn.

Mr. Tharp added that this is where they live and it is their intention to work with the Township to manage the 30 events per year, if that happens, and make sure they work within the ordinances and minimize complaints.

Motion by Priebe, supported by Koeble

In the matter of the request for Site Plan approval for 5550 Strawberry Lake Road, SP18-002, to recommend approval of the Site Plan to the Township Board, subject to the following:

- A. The Planning Commission finding that the Special Land Use approval (SUP18-002) dated December 19, 2018, remains in effect, including all waivers granted, consisting of the number of events being limited to 30 events per calendar year, with a maximum of 200 attendees, with an annual administrative review of the special land use permit, and approval of signage, as submitted, subject to and in accordance with the approval of the Site Plan;
- B. Planning Commission findings that the standards of Section 4.4.3 of the Township Zoning Ordinance, as identified in the Planning and Zoning Staff Report, dated December 19, 2018, as set forth in Paragraphs A – L, Pages 18 through 22, and as identified in Tonight’s Planning and Zoning Staff Report on pages 7-12 subject to the following conditions:
 1. The site plan shall include the following notes:
 - a. Hours of operation shall be limited to between 8:00 am and 11 pm; no amplified music shall be allowed after 10 pm; and, setup and cleanup of the event and workers and attendees to the event shall not arrive or leave the site before or after the hours of operation.
 - b. Events shall be required to meet the regulations of the Hamburg Township Noise Ordinance.
 - c. Adequate site and surrounding area clean-up shall be done within 48 hours following the event.
 - d. The agricultural use of the property must be started prior to the agritourism business. Meaning the crops shall be planted prior to site being used for the agritourism use.
 2. The site plan shall include the following notes and prior to issuance of a land use permit, the zoning department shall verify that the lighting complies with these notes:
 - a. All light fixtures shall be fully shielded and must be directed downward toward the earth or building.
 - b. All outdoor lighting shall be turned off between 11:00 pm and sunrise and that all light fixtures used for security purposes are to be on motion detection devices.
 - c. The portable lights used shall be directed toward the ground and shall be located on the site so a maximum of 0.5 footcandles is emitted at the property line. These lights shall be reviewed and approved by staff to ensure that they meet Section 9.11.4 of the Township Ordinance

- 3. Prior to issuance of a land use or building permit all local, county and state regulations will need to be reviewed and approved for this project. A list of the agencies that may be required to review this project including but are not limited to; the Livingston County Drain Commission, Road Commission, Building Department, and Health Department, and the Hamburg Township Engineer, Utilities and Fire Departments.
- 4. In addition to any other review from the building department, the building department shall also verify that all Federal and State requirements regarding handicapped parking, loading and access are met and that all other ADA requirements are met on the site.
- 5. If more than 50 cubic yards of grading will need to be done on this project a grading permit and plan shall be required. The grading shall be minimized and can be approved by staff as long as the grading plan respects the natural topography of the site to the maximum extent possible. If Staff is not comfortable approving the plan because of its scope it can be sent back to the Planning Commission for review as an amendment to the Special Use Permit.

The motion is made because the plan is otherwise in compliance with Article 3 and Article 4 of the Zoning Ordinance, and all other applicable provisions of the Ordinance,

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

7. NEW BUSINESS:

- a) ZTA19-009: (Public Hearing) Zoning Text Amendment to add regulations regarding collection bins. The regulation will allow collection bins within the Commercial and Industrial districts as long as some specific requirements can be met.

Chairman Muck opened the call to the public. Hearing no response, the call was closed.

Pacheco stated that this first came to the Planning Commission in November 2019. It is with regards to collection bins that are popping up around town. Those that have been put in have not done so legally, meaning that they have not come to the Township for approval. They are going on spaces that would require site plan amendments. We have been holding off enforcement until after we get some regulations in place. Because they have been installed without permits, we will be able to ask that they be removed and inform them where they can put them on the property. There are currently 5-6 in the CVS parking lot taking up approximately 6 parking spaces. CVS has already asked for reduced parking so we would never have allowed those spaces to be blocked. He stated that at the last meeting a couple minor modifications were requested. Those changes have been made and is now back for final review and recommendation to the Township Board.

Motion by Muir, supported by Bohn

To recommend to the Township Board approval of ZTA 19-009 to add regulations regarding Donation/collection bins as written in the staff report dated February 19, 2020

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

- b) Master Plan update (2020): Presentation of Draft 2020 Master Plan and updated Village Center Master Plan

Chairman Muck stated that we received a letter from Commissioner Leabu who could not be at tonight’s meeting but served on the 2020 Master Plan Steering Committee.

Planner Pacheco stated that we have been working on this project for the past two years. We are in the final stretch. The Commission is getting the first look at the draft Master Plan. He gave a brief history and reviewed his staff

report. He stated that in the draft Master Plan we included what use to be in the M-36 Corridor Plan. That plan will be eliminated. We did not however incorporate the Village Center Master Plan. That is still very important because that is the area where want to direct growth in the next 20+ years. That plan went into effect in 1995 and not much has changed. With our new goals and objectives in our Master Plan, it is much more clear that the area with higher density is the Village Center zoning districts and not the more rural single family residential districts. We also separated the appendixes which makes the document easier and less intimidating. It is much clearer and more precise for developers. We hope to use this document as a sales document for the community. He further explained the process including comments from interested agencies before we distributed the document. The next step would be for the Planning Commission to recommend to the Township Bord to move forward with distribution of the plan to the interested agencies who we have already talked to. There is a 63-day review period. After that review period, the Planning Commission will hold a public hearing on the final plan. The Commission can then make a recommendation to the Township Board. The Board then will have final approval of the Master Plan.

Chairman Muck thanked the entire Planning staff. He stated they did a remarkable job especially with the public outreach.

Commissioner Bohn stated that this is a vast improvement over our current Master Plan. The efforts are truly reflected in the document.

Commissioner Hamlin provided some minor language and grammatical changes.

Motion by Muir, supported by Priebe

To recommend to the Township Board distribution of the draft 2020 Master Plan dated 2/19/2020 with the minor changes as recommended by Commissioner Hamlin. The Township Board can either approve the distribution with no changes or minor changes or they can recommend major changes to the draft Master Plan. If they recommend major changes to the plan, then the plan with the proposed changes will need to be sent back to the Planning Commission for review

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

Motion by Muir, supported by Koeble

To recommend to the Township Board inclusion of the draft changes to the Village Center Master plan with the distribution of the draft 2020 Master Plan

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

8. ZONING ADMINISTRATOR'S REPORT:

Amy Steffens, Planning & Zoning Administrator stated that she would like to remind the Commissioners that the annual joint meeting with the Township Board, Planning Commission, Zoning Board of Appeals and Parks and Recreation Committee will be next Wednesday, February 26th at 7:00 p.m. They are currently working on the staff reports. It will be a year in review for 2019 and help us set our work plan for the coming year. Some of the zoning text amendments they will be talking about at this meeting include the unintended consequences of the non-conforming ordinance, we would like to talk about some of the floodplain development standards, and possibly short-term rentals. If there is anything that the Commissioners would like addressed, please let staff know before Friday as the packets will be going out.

9. ADJOURNMENT:

Motion by Hamlin, 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 8:00 p.m.

Respectfully submitted,

Julie C. Durkin
Recording Secretary

The minutes were approved as presented/Corrected: _____

Jeff Muck, Chairperson

DRAFT

**HAMBURG TOWNSHIP
SPECIAL PLANNING COMMISSION
JOINT MEETING
Hamburg Township Hall Board Room
Wednesday, February 26, 2020
7:00pm**

1. Call to Order:

Planning Commission Vice Chairman Muir called the meeting to order at 7:00 p.m.

2. Pledge to the Flag:

3. Roll Call of the Board:

Planning Commission: Present: – Bohn, Hamlin, Leabu, Muir, Priebe (also on Zoning Board of Appeals), and Koeble (Trustee on the Township Board and on Parks & Recreation) Absent: Muck

Hamburg Township Board Present: Supervisor Hohl, Dolan (also on Parks & Recreation and Zoning Board of Appeals), and Koeble (also on Parks & Recreation and Planning Commission) Absent: Hahn and Menzies & 1 Vacancy

Zoning Board of Appeals Present: Chairperson Priebe (also on Planning Commission), Dolan (Trustee on the Township Board), Rill and Watson Absent: Auxier, Diepenhorst and Hollenbeck

Parks & Recreation Present: Dolan (Hamburg Township Clerk), Koeble (Trustee on the Hamburg Township Board and on Planning Commission) Absent: Auxier & Muck

Also Present: Amy Steffens, Planning and Zoning Administrator; Scott Pacheco, Township Planner, Ted Michowski, Code Enforcement Officer, Deby Henneman, Parks Coordinator, and Fire Marshall Jordan Zernick,

4. Call to the Public:

Vice Chairman Muir opened the call to the public. Hearing no response, the call was closed.

5. Correspondence:

There was no correspondence presented.

6. Approval of Agenda:

Motion by Bohn, supported by Priebe

To approve the agenda as presented

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

7. Current Business:

A. Kathleen Kline-Hudson, Livingston County Planning

Ms. Kathleen Kline-Hudson was unable to attend due to the inclement weather.

B. Parks and Recreation Committee updates

Clerk Dolan stated that we have a student athlete from Pinckney High School who will become a member of our Parks and Recreation Committee. He further discussed the make-up of the Committee.

Deby Henneman, Parks Coordinator, discussed the upcoming Spring clean-up event to be held Saturday April 25th. She discussed other on-going projects such as the Master Plan, Adopt-a-Garden and bench programs.

Discussion was held on community support of possible pickleball area.

C. General Ordinance codification update

Henneman discussed the on-going ordinance review and ultimately the codification of all Township ordinances. Discussion was held on the RFP process to move forward with the process within the next fiscal year.

D. Planning and Zoning Department 2019 year in review

Planning and Zoning Administrator Steffens thanked Brittany Stein for compiling and inputting the data for the report. Steffens reviewed the Year in Review including the Planning Commission activities over the past year as well as Zoning Board of Appeals hearings and variance requests. Discussion was held on the trends in requests and rulings by the ZBA. Steffens discussed the Zoning text amendment recommendations based on the requests that we see most often. Discussion was held on safety concerns with the larger houses on the small waterfront lots.

Steffens discussed the permits issued by the Planning and Zoning Department by category. Discussion was held on the various projects on-going throughout the Township.

Discussion was held on floodplain activity and the flood-inundation study and maps prepared in cooperation with U.S. Army Corps of Engineers, Hamburg Township and Green Oak Township as well as the Drain Commission.

Discussion was held on flood areas such as Ore Lake and the Flood Insurance and FEMA maps. Discussion was held on the CRS incentive program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements. Residents are able to get a 10% discount on their flood insurance because of this program.

Discussion was held on EGLE (DEQ) Activity.

Discussion was held on Land Divisions, Boundary Adjustments, and Combinations in 2019. Steffens discussed the changes in the Land Division ordinances moving them from the General Ordinances to the Zoning Ordinance in 2017 streamlining the process.

E. 2019 Code enforcement year in review

Ted Michowski, Code Enforcement Officer, gave a brief description of his background and the changes in his part-time position now working as a civilian employee of the Police Department rather than working under the Zoning Department. He stated that this allows him to handle the investigation rather than involving a Police Officer. He discussed the complaint-based enforcement process. He reviewed the 2019 Code complaints and violations.

Discussion was held on the process needed for new business owners and possible permit process for new businesses. Discussion was held on educating the new business owners. Further discussion was held on seeking compliance and enforcement.

Discussion was held on staff training & professional activities and upcoming training opportunities.

F. Zoning Amendments 2019-2020

Planning and Zoning Administrator Steffens and Scott Pacheco, Township Planner, reviewed the 2019 Zoning text amendments that were made as well as those that are still under review.

Pacheco stated that staff will be looking to make more changes to the zoning regulations and discussed the recommended Zoning Text Amendments for review in 2020 including Non-Conforming Regulations, Minimum House Sizes and Lake Frontage for Newly Created Properties.

Discussion was held on the variances approved by the Zoning Board of Appeals. Discussion was held on the impact on surrounding properties as well as the fire safety. Discussion was held on non-conforming structures and lakefront lots. Supervisor Hohl stated that he would like this discussion regarding the non-conforming issues to be continued during the Strategic Planning meeting in March.

Steffens discussed floodplain regulations and the Township's participation in the National Flood Insurance Program. She stated that the Township should consider directing staff to research the necessity and impact of adopting certain changes to the floodplain regulations. Discussion was held on the increased number of flood events over the last ten years.

Pacheco discussed other revisions they will be looking at such as Wireless Revisions, Ordinance and Map revisions to better reflect the Village Center Master Plan, Accessory Dwelling Units, Wind and Solar Farms, Senior Housing Ordinance, and Short-Term Rental Uses.

G. 2020 Master Plan Update

Planner Pacheco stated that at the February 19, 2020 meeting, the Planning Commission recommended to the Township Board the distribution of the plan. There has been a lot of work done over the last two years and have had a lot of public outreach. On March 3rd it will be going to the Board who will review the draft and determine if it is ready to distribute to the interested agencies. After distribution, they have 63 days to review it after which the Planning Commission will hold a public hearing on the final draft. On March 3rd, the Board may adopt a resolution to assert their right to approve or deny the plan. If they do not assert their right, then the Planning Commission will approve or deny the plan.

Steffens discussed the issues that they have had with open PUDs that were approved years ago. She stated that they are building, but there is no agreement as to when the amenities need to be completed. Discussion was held on problems that occur when the developer has left and turned things over to the Homeowner's Association, etc. Discussion was held on conducting an inventory of existing PUD developments. Discussion was held on the new developments having an agreement with the Township that are very specific as to how things occur.

8. Call to the Public:

Vice Chairman Muir opened the call to the public. Hearing no response, the call was closed.

9. Board Comments:

Supervisor Hohl thanked the Planning and Zoning staff for their report. He stated that he will allow time at the Strategic Planning Meeting for them to bring forth any of these topics.

10. Adjournment:

Motion by Priebe, supported by Hamlin

To adjourn the meeting

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

The Special Meeting of the Planning Commission was adjourned at 9:35 p.m.

Respectfully submitted,

Julie C. Durkin
Recording Secretary

The minutes were approved as presented/Corrected: _____

Ronald Muir, Vice Chairperson

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

To: Planning Commission
From: Scott Pacheco, AICP
Date: March 18, 2020
Agenda Item: 7A
Subject: Amendment to Mystic Ridge Subdivision Development Agreement

AMENDMENT REQUEST:

Amendment to the Mystic Ridge Open Space Planned Unit Development (OSPUD) approved by the Township Board on May 21, 2002 and amended on October 3, 2017. On February 12, 2020 the majority owner of the OSPUD submitted an application to amend the approval language for the OSPUD (Exhibit A).

From:

“access being provided via Scully Road. In no way would Hamburg Township issue more than 98 Land Use Permits for Single Family Homes in the development until an agreement is reached between the developer, Hamburg Township, Webster Township, Livingston County Road Commission and Washtenaw County Road Commission regarding ingress and egress off Scully Road”

To:

“access being provided via ~~Scully Road~~ a second point of access to the project through the proposed project to the east via Thompson Pond Drive. In no way would Hamburg Township issue more than 98 Land Use Permits for Single Family Homes in the development until an agreement is reached between the developer, Hamburg Township, ~~Webster Township~~, Livingston County Road Commission ~~and Washtenaw County Road Commission~~ regarding ingress and egress off Road a second point of access to the project through the proposed project to the east via Thompson Pond Drive”

ORIGINAL APPROVALS AND SUBSEQUENT AMENDMENTS:

In May of 2002 the Township Board approved the Mystic Ridge Open Space Project. The approval (Exhibit B) of this project was contingent upon:

“access being provided via Scully Road on or before June 1, 2006. In no way would Hamburg Township issue more than 98 Land Use Permits for Single Family Homes in the development until an agreement is reached between the developer, Hamburg Township, Webster Township, Livingston County Road Commission and Washtenaw County Road Commission regarding ingress and egress off Scully Road or June 1, 2006”

The original project also included an approved site plan. That plan showed comment open space improvements including the following:

- 1) Items in the common area east of Sanctuary Ridge:
 - a. Parking Lot with Basket Ball Court
 - b. Picnic area
 - c. Volleyball Court
 - d. Tot lot
 - e. Outdoor Amphitheater
 - f. Asphalt Walking with Boardwalk across Wetland Area
- 2) Items in common area south of the roundabout on Sanctuary Ridge:
 - a. Baseball Diamond
 - b. Soccer Field
- 3) Items in common areas throughout the site:
 - a. Gravel walking paths
 - b. Landscaping in common areas

In August of 2017 the majority owners of the mystic ridge development, Rick-Rob Development LLC, James G Haeussler, applied for an amendment to the Original OSPUD approvals. The following changes to the originally approved Open Space Project were requested at that time:

- 1) Change the time frame required for providing access to Scully Road,
- 2) Change the configuration of the picnic table area in the common area east of Sanctuary Ridge and across from the intersection with Seney Circle,
- 3) Reconfigure the walking path in the area east of Sanctuary Ridge and change the surface of this path from asphalt to grass,
- 4) Remove the amphitheater in the common area east of Sanctuary Ridge,
- 5) Change the completion date of the common element to on or before the issuance of the 98th land use permit for a new single family home,

On September 20, 2017 the Planning Commission held a public hearing on the proposed amendment to the OSPUD. At this meeting the Planning Commission recommended approval of only the following amendments to the OSPUD to the Township Board.

- 1) Removal the requirement that Scully Road access be open prior to June 1, 2006 and instead to require the opening of access to Scully Road to the issuance of the 98th land use permit for a new home within the development.
- 2) All of the originally approved open space improvements and landscaping in the phases that have started development (phase 1, 2, 4, 5, 7 and 8) shall be constructed prior to the issuance of the 16 additional land use permit of a new home or by August 31, 2018 whichever comes first.

The rest of the project should remain as originally approved or the developer shall work with the citizen on their concerns and resubmit for any additional amendments to the Mystic Ridge Open Space project.

On October 3, 2017 the Township Board reviewed the project and agreed with the Planning Commission's recommendation to allow the removal of the language requiring Scully Road to be open prior to June 1, 2006, and to require that allow improvement and landscaping be installed in all the development phases where construction had begun prior to the issuance of the 16th land use permit for a new home of August 31, 2018 whichever comes first.

In June of 2018 the owners returned with another proposed amendment to the OSPUD approvals. The following changes to the originally approved Open Space Project were requested:

- 1) Reconfigure the walking paths throughout the project. The proposes walking paths would eliminate more than 50% of the originally approved walking paths within the Mystic Ridge Development;
- 2) Change the surface of the walking paths from the previously-approved pavement and gravel to mowed grass; and
- 3) Eliminate the following items from the development; the outdoor amphitheater, picnic area and tables, horseshoe pits, volleyball court, tot lot, baseball diamond, and soccer field.

On July 18, 2018 the Planning Commission held a public hearing on the proposed amendment to the OSPUD approvals and made the following recommendation to the Township Board approve the proposed amendment to the OSPUD with the following changes:

- 1) The walking paths should be gavel not grass;
- 2) The developer shall work with staff to provide a walking path on the west side of the site that runs through the middle of the project as depicted at the July 18, 2018 meeting; and
- 3) The mowed play areas in the areas east of sanctuary ridge and south of the roundabout on sanctuary ridge shall be defined.

Prior to the Township Board meeting the owners of the OSPUD worked with staff and revised the proposed site plan for the OSPUD showing all of the changes recommended by the Planning Commission.

On August 9, 2018 the Township Board held a meeting to review the proposed amendment to the OSPUD approval and the Township Planning Commission recommendation and approved the proposed changes to the OSPUD with the Planning Commission recommendations.

AMENDMENT PROCESS:

The Michigan Zoning Enabling action Section 125.3501 Submission and approval of site plan; procedures and requirements. Requires that site plan approval is required for all Planned Unit Development.

According to the Zoning Ordinance Section 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.

Final site plan approval must first be heard by the Planning Commission who makes a recommendation to the Township Board. The Township Board reviews the Planning Commission recommendation allow with the proposed project and makes the final determination on the project.

PROJECT ANALYSIS:

Open Space Projects must meet the standard under site plan review Article 4, Section 4.5.7 along with the standards in Article 14 Planned Unit Developments, Section 14.1 Open Space Planned Unit Developments.

Staff Comment:

Because the existing approved site plan for the Mystic Ridge OSPUD was originally designed with a right-of-way that extend up to the east property line shared with the property at at E-15-35-300-044 accessed off of Thompson Pond, no change in the approved site plan would be necessary if a secondary access point was developed from the Mystic Ridge subdivision through the property at E-15-35-300-044 to Thompson Pond and onto Merrill. However, because an alternative secondary access roadway is not designed or approved at this time and no traffic studies have been prepared or presented for any possible future alternative access roadway; staff suggest that the wording for the Mystic Ridge OSPUD approval be revised to be more general to allow more flexibility as final site plan approval for a future access roadway from Mystic Ridge would have to be reviewed and approved through any alternative location other than Scully Road. The proposed amendment to the approvals of the Mystic Ridge OSPUD by staff below would allow the property owner more options than just Scully Road or Thompson Pond to create a secondary access roadway into and out of the Mystic Ridge Development. Staff suggests the following revisions to the approval language:

*“access being provided via Scully Road **or an alternative second point of access to the project.** In no way would Hamburg Township issue more than 98 Land Use Permits for Single Family Homes in the development until an agreement is reached between the developer, Hamburg Township, ~~Webster Township, Livingston County Road Commission and Washtenaw County Road Commission~~ and any other required agency regarding ingress and egress off Sully Road **or an alternative second access roadway to the project.**”*

If an alternative secondary roadway other than Scully Road is proposed the applicant will need to submit the proposed roadway design along with all necessary information for review of that secondary access roadway to the Township and other agencies for required approvals. The Township will need to review the proposed secondary access roadway for compliance with the township regulations including but not limited to the Site Plan Standards (Article 4) OSPUD (Article 14) standards and the Private Road Ordinance.

Recommendation:

Staff suggests that the Planning Commission review and consider the proposed amendment to the Mystic Ridge Open Space Project in terms of its own judgment on particular factors related to the individual proposal, the most likely effect on the community's physical development, conformance with the Township Master Plan, and how the amendments meet the required standard. The Planning Commission may recommend any additions or modifications to the

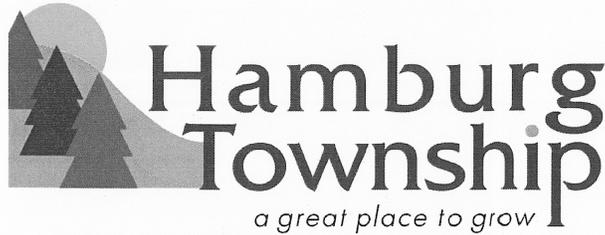
proposed amendment. The Planning Commission should then make a recommendation to approve/deny the proposed Amendment to the Open Space Project and Site Plan to the Township Board.

Staff will forward the proposed amendment along with the Commission's recommendation to the Township Board for a final decision on the proposed amendment.

Exhibit A—February 2020 Amendment Application and Materials

Exhibit B—Original Approval Motion

EXHIBIT A



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

P.O. Box 157
10405 Merrill Road
Hambura, Michiaan 48139

SITE PLAN APPROVAL APPLICATION

Please note: All required information, copies, fees, and other materials as appropriate must be submitted and complete before the Township Planning Commission will set a public hearing date on the Site Plan Approval Application.

Application fees and review fees are required at the time of application.

In the case of separate applications for Preliminary and Final reviews, separate application and review fees shall be collected. Review fees shall be placed into a non-interest bearing escrow account. Upon final review, review fee balances shall be returned upon receipt of final billing. The applicant shall be responsible for all costs incurred.

Note: Acreage calculations based upon the acreage being developed or utilized for the project (parking, buildings, walks, storm water retention etc.)

The undersigned hereby makes application for a Site Plan Approval for: (Check all that apply)

- 1. TYPE OF PROJECT: [XX] Open Space [] Echo [] Residential [] Condominium
[] Apartments [] Commercial [] Industrial [XX] PUD [] Hardship PUD

- 2. TYPE OF APPLICATION: [] Preliminary Site Plan [] Optional Conceptual Site Plan Review by Planning Commission
[] Final Site Plan [] Combined - Preliminary/Final Site Plan
[XX] Minor Site Plan [] Site Plan Amendment (less than 25% area of site being changed) [] Site Plan Amendment (26% or more or site being changed)

3. PROJECT NAME: Mystic Ridge PUD Submittal Date: 2/12/2020

4. PROJECT ADDRES:

Tax Code Numbers: 15 - 15 - 15 -
15 - 15 - 15 -

[] Metes & Bounds Parcel [X] Subdivision Mystic Ridge Subdivision Lot Numbers: N/A

Zoning District Classification: RAA Low Density Floodplain Classification: N/A

Number of Lots Proposed: 177 Acreage of Project: 273.56

5. PROJECT DESCRIPTION: Change requirement for the access to Scully Road to be opened prior to the issuance of the 98th land use permit and instead provide a second point of access to the project through the proposed project to the east via Thompson Pond Drive, prior to the issuance of the 98th land use permit.

6. **OWNER/PROPRIETOR INFORMATION:**

Name: Rich-Rob Development, LLC (Attn: Jim Haeussler) Phone Number(s): (734)429-4200/(734)260-9678
Email: jhaeussler@petersbuilding.com Address: P.O. Box 577, 172 S. Industrial Drive
City: Saline State: MI Zip: 48176

7. **APPLICANT:**

Name: Rich-Rob Development, LLC (Attn: Jim Haeussler) Phone Number(s): (734)429-4200/(734)260-9678
Email: jhaeussler@petersbuilding.com Address: PO Box 577, 172 S. Industrial Drive
City: Saline State: MI Zip: 48176

8. **DESIGNER INFORMATION:**

Name: Midwestern Consulting (Attn: Rob Wagner) Phone Number(s): (734)995-0200/(810)923-0637
Email: rcw@midwesternconsulting.com Address: 3815 Plaza Drive
City: Ann Arbor State: MI Zip: 48108

9. **SPECIAL USE PERMIT:**

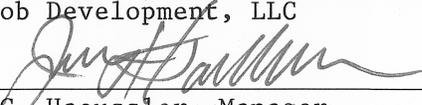
Is a Special Use Permit required for this project? No Yes
IF YES, Attach Special Use Permit Application Form with this site plan review application form

APPLICANT CERTIFICATION:

I hereby certify that all structures and uses for which this application is made shall conform to the Ordinances of Hamburg Township, Livingston County and the State of Michigan. All information submitted as a part of the site plan application is to my knowledge accurate. If the information is determined either now or in the future to be inaccurate any permits granted for the incorrect information shall be void and any structures built or uses approved may be in violation of the required ordinances and must otherwise be brought into compliance with all regulations.

I further agree that any deviation from the plans submitted or the breach of any additional safeguards, conditions or requirements the Hamburg Township may impose in granting this application shall constitute a violation of the Ordinance and invalidate the permit granted.

Rich-Rob Development, LLC

PROPERTY OWNERS SIGNATURE: BY:  DATE: 2/12/2020
James G. Haeussler, Manager

*If an agent submits the project to the Township for the property owner a letter authorizing must be submitted.

BENCHMARK #306

STRAWBERRY LAKE ROAD

DRIVEWAY ACCESS EASEMENT PER L.2006R, P.020946

SHEET 4
SHEET 5

CONSERVATION EASEMENT AREA PER L.4778, P.499

SENEY CIRCLE

MARSHLAND COURT

CONSERVATION EASEMENT AREA PER L.4778, P.499

HICKORY VIEW COURT

SENEY CIRCLE

BENCHMARK #403

SANCTUARY RIDGE TRAIL

SHEET 5
SHEET 7

SHEET 6
SHEET 9

SHEET 8
SHEET 9

BENCHMARK #406

SANCTUARY RIDGE TRAIL

CRANE CREEK COURT

WARREN WOODS LANE

SHEET 6
SHEET 10

WEST TRAILSIDE LANE

POINT PELEE COURT

SHEET 10
SHEET 9

SHADBUSH TRAIL

SHEET 10

SHEET 11

SOUTH TRAILSIDE LANE

145 144 143 142 141 140 139 138

HARBOR TRAIL

471.42'

LEGEND

 PROPOSED FUTURE DEVELOPMENT

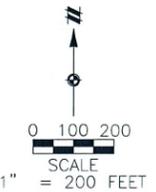
NOTE:

1. UNIT NUMBERS CORRESPOND TO NUMBERS SHOWN ON APPROVED SITE PLAN AND ARE NOT IN SEQUENCE.
2. ALL ROADS IN PROJECT ARE PRIVATE ROADS FOR ACCESS PER L.3625, P.169
3. ALL ROADS IN PROJECT ALSO CONTAIN UTILITY EASEMENTS FOR SANITARY SEWER & WATERMAIN PER L.3625, P.177

BENCHMARK: #306
 N = 342666.72
 E = 13265679.51
 ELEV. = 871.99
 NAVD88 = 872.23
 SET SPINDLE IN S'LY FACE OF 14" BOX ELDER OFF STRAWBERRY LAKE ROAD, NORTHWEST OF ACCESS ROAD

BENCHMARK: #403
 N = 339304.44
 E = 13264997.45
 ELEV. = 923.20
 NAVD88 = 923.44
 TOP OF REROD @ WEST LINE OF SITE

BENCHMARK: #406
 N = 340527
 E = 13266760
 ELEV. = 897.26
 NAVD88 = 897.50
 TOP OF REROD @ CENTER OF SITE



PROPOSED DATED - APRIL 25, 2019

LISA M. DROUILLARD
 LICENSED PROFESSIONAL SURVEYOR NO. 46723
 ATWELL, LLC
 TWO TOWNE SQUARE, SUITE 700
 SOUTHFIELD, MI 48076
 (248) 447.2000

SURVEY COMPOSITE PLAN MYSTIC RIDGE ESTATES



811
 Know what's below.
 Call before you dig.

THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.

NOTICE: CONSTRUCTION SITE SAFETY IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR. NEITHER THE OWNER NOR THE ENGINEER SHALL BE EXPECTED TO ASSUME ANY RESPONSIBILITY FOR SAFETY OF THE WORK OF PERSONS ENGAGED IN THE WORK OF ANY NEARBY STRUCTURES, OR OF ANY OTHER PERSONS.

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SECTION 34	TOWN 1	NORTH, RANGE 5	EAST
	HAMBURG TOWNSHIP		
	LIVINGSTON COUNTY, MICHIGAN		

CLIENT	MYSTIC RIDGE DEVELOPMENT, LLC
	MYSTIC RIDGE ESTATES
	SURVEY COMPOSITE PLAN

DATE	8/13/2018
AMENDMENT	4/25/19
REVISIONS	
DR.	JMM CH. LMD
P.M.	L. DROUILLARD
BOOK	--
JOB	16002646
SHEET NO.	03

EXHIBIT B



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

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

A GREAT PLACE TO GROW

Memorandum

To: Township Board of Trustees
CC:
From: Pat Hagman
Date: May 10, 2002
Re: Mystic Ridge Final Site Plan Approval

Your copy of the Final Site Plan documents for Mystic Ridge are at the Township offices in the Zoning Department. Due to the Size of the documents, it is quite awkward for delivery.

This proposal is ready for action by the Township Board. Items that remain to be resolved by the Board as I know them are the following:

1. Access to Scully Road. There has been concern by Webster Township for unimpeded access via Scully Road. The developer has proposed to consider blocking access for a period of time until such time that the development reaches a number of houses (to be determined by the Board). The developer is also agreeing to set up an SAD for road maintenance to allow public access through this private development out of concern for the need of a thoroughfare within the Township for this section of Hamburg.
2. Final design and Water Service agreement for the Central Water System. Hamburg Township must make the final decision in order for the Developer to move forward.

This submittal is ready for action by the Township Board. Upon discussion and action by the Board, the developer can then complete to application process in regard to the above-mentioned items.

or before
Motion by Hohl, supported by Menzies, to grant final site plan approval to Mystic Ridge subject to a written letter of review and acceptance of the Master Deed by John Drury, Jim Kiefer, and John Adams, contingent upon access being provided via Scully Road on June 1, 2006. In no way would Hamburg Township issue more than 98 land use permits for single family homes in the development until an agreement is reached between the developer, Hamburg Township, Webster Township, Livingston County Road Commission and the Washtenaw County Road Commission regarding ingress and egress off Scully Road or June 1, 2006. Hamburg Township Board shall be provided by the office of the Supervisor, all water testing documents generated by the Water Authority and the State of Michigan. Hamburg Township shall not have ownership or responsibility of the Water Authority, water system or any part thereof. Emergency gated access to Scully Road is to be provided immediately.

*e Master Deed
all provide that
- developer shall
deliver to*

Voice Vote: AYES: 7 MOTION CARRIED UNANIMOUSLY.

10013.022 Digital Packets/Use Policy

Motion by Hardesty, supported by Hohl, to table the digital packets and use policy until the June Board meeting.

Voice Vote: AYES: 6 NAYS: 1 (Dillman) MOTION CARRIED.

11012.022A Incentive Compensation

Motion by Menzies, supported by Balon-Vaughn, to approve the incentive compensation awards as presented.

Voice Vote: AYES: 4 NAYS: 3 (Hardesty, Hohl, Majoros) MOTION CARRIED.

01021/019 Electric Choice Program

Motion by Majoros, supported by Balon-Vaughn, to authorize the Supervisor and Clerk to execute the agreement with MMRMA for participation in the Energy Choice Program

Voice Vote: AYES: 7 MOTION CARRIED UNANIMOUSLY.

03023.020 Durston/Eriksen Drive Proposed Road Paving Project

Motion by Hohl, supported by Majoros, to table any action regarding the Durston/Eriksen Drive road paving project.
MOTION WITHDRAWN.

Motion by Hohl, supported by Wiley, to deny the Durston/Eriksen Drive road paving project based on public hearing comments.

Voice Vote: AYES: 7 MOTION CARRIED UNANIMOUSLY.

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



P.O. Box 157
10405 Merrill Road
Hamburg, Michigan 48139-0157

To: Planning Commissioners
From: Scott Pacheco, AICP
Date: February 19, 2020
Agenda Item: 7B
Re: ZTA20-001 Minimum House Size

PROJECT HISTORY:

The Township Board directed staff at the 2019 joint meeting in February to propose a ordinance amendment that would revise the minimum house size regulations to address the growing need and preference for smaller housing within the Township. This item was discussed again at the February 2020 joint meeting.

ANALYSIS:

History of Housing Sizes:

In 1900 the average house size in the US was between 700 and 1200 square feet. The average house size stayed under 1,000 square feet until after the 1950's. Up until the 1960s homes on average included 2 bedroom and one bathroom. After the 1950's the average home size began to increase because of the availability of more affordable land in the suburbs and lower cost and more availability of material being mass produced and shipped using more available transit. By 2000 the average new home had increased to over 2,000 square feet and included 3 bedrooms 2 and ½ bath.

Housing Trends:

The county has recently seen an increase in a preference from home buyers for a smaller housing type. Smaller houses offer a lower maintenance and energy costs while preserving the benefits enjoyed by other single family homes, such as more privacy and independence. Small houses have become a more popular housing choice for both Baby Boomers and Millennials. Boomers which are deciding to downsize and Millennials which are looking to purchase their first homes; are many times searching for the same thing when it comes to housing; affordability, low maintenance, safety and a sense of being part of a larger community.

Municipal Regulations On Minimum House Size:

As stated in the attached article APA: Minimum Requirements for Lot and Building Size (Exhibit A) *"The courts have not looked with favor on minimum building size requirements. In most of the cases involving such provisions, the restrictions have been declared invalid."* Minimum building size regulations were likely put into the zoning regulation for two reasons; one to protect the property values in the community and two to protect the health and welfare of the person living in the home. *"In at least two Michigan decisions the courts have rejected*

the argument that minimum building size requirements should be sustained because of their relation to the protection of property values.”

Senefsky v. Lawler, 307 Mich. 728, 12 N.W. 2d 387 (1943), the court found that an ordinance which required a minimum of 1,300 square feet of usable floor space in a particular zone was unreasonable and void, since the restriction has no relation to public health, safety and welfare. It claimed that the fact that the restriction was designed to protect and preserve property values was insufficient to sustain its validity. A similar decision and opinion is contained in another Michigan case, *Elizabeth Lake Estates et al. v. Waterford Township*, Supreme Court of Michigan, April 8, 1947, 26 N. W. 2d 788. The zoning ordinance of Waterford Township contained minimum building size requirements for the various zones both in area and cubical content.

Through the years courts have often found that minimum house size requirements are “*simply an indirect means for assuring the "economic exclusiveness" of a neighborhood,*” and have found these restrictions to be invalid.

“Despite the number of cases which have been decided in opposition to minimum building size requirements, the courts have far from closed the door to future changes. In nearly every decision in which such regulations were held invalid, there are phrases which give hope to proponents of minimum requirements.” The Courts will usually include phrases that make their determination specific to the case they are hearing and not outright banning minimum house sizes all together. In the two Michigan cases *Senefsky v. Lawler* the courts found “*the minimum requirements were illegal as applied to the particular subdivision under consideration*” and in *Elizabeth Lake Estates et al. v. Waterford Township* the court found “*that the zoning ordinance was not comprehensive*” and therefor denied the minimum square footage regulation.

Most municipalities throughout Michigan have minimum square footage regulations for single family homes. The following is a list of the minimum house size requirements for the surrounding communities:

- 1) Green Oak Township: 1050 square feet
- 2) Marion Township: 1,000 square feet
- 3) Hartland Township: 1,200 or 1,000 square feet depending on the zoning district
- 4) The City of Pinckney: 950 square feet
- 5) Webster Township: 1 Bedroom=620 square foot up to 5 Bedroom=1020 square foot
- 6) Dexter Township: 800 square feet
- 7) The City of Dexter: 1,000 square feet
- 8) The City of Ann Arbor: No minimum house size. The R1E zoning district has a 2,000 square foot maximum house size.

Also something to remember is that many of the existing subdivisions and planned unit development within the Township have minimum house sizes in their existing master deeds and bylaws. These rules are not enforced by the Township but are enforce by the individual developer or home owners association. The Township regulations will not impact these existing private requirements.

When considering minimum housing size regulations the legality of these regulations and also the pro and con of these restrictions should be considered. As stated before some of the pro are:

- 1) Requiring a minimum house size preserves the housing value in the area. The thought behind this is that a larger house should sell for more than a smaller house. As we have seen in some court cases this is not a good defense for a municipality requiring a minimum house size. Also this could create a situation where the only type of house

available for sale in a community is larger homes. This could creating an overabundance of a specific type of housing product which may hurt housing values in a community. This consideration also is linked to the taxable value of the community. Large lot single family homes often cost more in public services and therefore higher values are needed to support these types of homes.

- 2) Requiring a minimum house size preserves the character of the community. This would mean that the township believe that similar home sizes would be necessary to preserve the character of the community or at a minimum a home under 1,000 square feet would not preserve the character of the community. Again private subdivision may have size restriction in their master deeds and by laws as they may also have regulation house color and fence design. These items are designed to create a homogeneous appearance within a subdivision.
- 3) Requiring a minimum house size preserves the health, safety and welfare of the community. The thought behind this is that living in a small house would have an impact on the health of a person. There are conflicting opinions regarding this point. Some believe that small living spaces have negative impacts on a person's mental and physical health. These opinions state that small spaces create additional steps in everyday living, like converting a sleeping area into a living space with a murphy bed. These additional steps can increase a person's stress level. Small spaces can also be cramped and over crowed which may create health problems by not having enough space to get exercise by moving around your living space and could cause problems with children being able to study and concentrate. Other opinions believe that small spaces provide more opportunity for people to connect to the community and to utilize more outdoor activities which provide a healthier lifestyle.

Some of the con for requiring a minimum house size are:

- 1) Requiring a minimum house size is a restriction on private property rights. Not allowing a person to build any size house they want on their property restricts their property rights. Although that is true zoning regulation do usually restrict what can be built on a private property.
- 2) Requiring a minimum house size creates less affordable housing in a community. As stated under the pros above larger houses have higher values making them less affordable. Allowing smaller home allows people to build housing that in most cases would cost less to construct than a lager home.
- 3) Requiring a minimum house size limits the size variation in the housing stock of a community. This limitation on the type and size of housing available for sale within your community may have negative impact of home sales if a small house becomes more desirable.

There are many conflicting opinions on minimum houses sizes. So the real question here is what does the Township believe make the most since to their citizens and what regulations are the most legally defensibly.

Existing Regulations:

Building Codes

Michigan's 2015 Residential Building Code has the following requirements that may affect house size:

- 1) Minimum habitable room sizes: 70 SF min. (excludes bathrooms, kitchens, hallways, storage & mech. rooms)
- 2) Ceiling heights: 7' min. for habitable spaces (excludes bathrooms, laundry & storage rooms)

- 3) Non-habitable rooms & basements shall maintain 6' - 8" min. ceiling height
- 4) A dwelling unit (MRC definition) shall provide complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking & sanitation.

Hamburg Township Zoning Ordinance

The Hamburg Township Zoning Ordinance currently includes the following regulations for minimum dwelling size.

Chapter 7

Footnotes to Section 7.6.1. Schedule of Area, Height, and Bulk Regulations

5. *Minimum square footage for residential dwellings shall be 1000 square feet above ground, excluding basements.*
14. *Minimum floor area per dwelling unit shall be as follows:*
 - a. *Single-family/Duplex - 1000 square feet*
 - b. *Multiple-family:*
 - Efficiency - 450 square feet*
 - 1 Bedroom Unit - 550 square feet*
 - 2 Bedroom Unit - 650 square feet*
 - 3 Bedroom Unit - 800 square feet*

Footnote #5 is the minimum dwelling size regulations for the CE, RAA, RA, RB, WRF and NR zoning districts and footnote #14 is the minimum dwelling size regulations for the VC and VR zoning districts.

Chapter 8

8.5.2 Dimensions. *Each such dwelling unit shall have a minimum width across any front, side, or rear elevation of twenty (20) feet and shall comply in all respects with the Michigan State Construction Code Commission, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan State Construction Code Commission, then and in that event such federal or state standard or regulation shall apply.*

8.5.7 Architecture. *All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity. All homes shall have a roof overhang of not less than six inches on all sides. The dwellings shall not have less than two (2) exterior doors with the second one being in either the rear or side of the dwellings. Steps shall also be required for exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.*

Options for Potential Amendment to the Minimum Size Regulations:

- 1) Remove the minimum house size requirements under section 7.6.1 footnote 5 and footnote 14.

With this potential change the size of the house would mainly be up to the owners of the property; the only zoning regulations that may still impact the size of the home would be the setbacks, number of stories and lot coverage requirements. On small sites these requirements may restrict the house to a certain size.

- 2) Lower the minimum house sign requirement under section 7.6.1 footnote 5 and footnote 16.

With this potential change the Planning Commission would choose a smaller number based on what they believe is an adequately size structure to protect the health and safety of the people living in the structure. As stated above some people believe that the size of a home has an impact on the health and safety of the people living in the homes.

If the Planning Commission believe this was the appropriate change to the ordinance staff would suggest that the minimum house size be reduced to 600 square feet for a single family home under footnote 5 and footnote 14 and that multifamily dwellings be changed to 400 square feet for an Efficiency, 500 square feet for a 1 Bedroom Unit, 600 square feet for a 2 Bedroom Unit, and 700 square feet for a 3 Bedroom Unit under footnote 14.

The PUD ordinance restricts housing units under the ECHO and Cottage Housing regulations. These regulations are setup to allow a greater density bonus on a piece of property if the housing is restricted to a smaller size and other restrictions.

- 3) Lower the minimum house size requirement under section 7.6.1 footnote 5 and footnote 16 and base the minimum on the number of bedrooms?

If the Planning Commission believe this was the appropriate change to the ordinance staff would suggest that the minimum house size be reduced under footnote #5 as followed:

5. Minimum square footage above grade, excluding basements and parking for residential dwelling unit, either single family, duplex or multi-family shall be as follows:

Efficiency 400
One bedroom 500
Two bedroom 600
Three bedroom 700

Footnote #14 could then be removed as it would be covered under footnote #5.

With all of these options staff would also recommend removing the other following regulations:

1. Dimensional regulations in 8.5.2 requiring that the front side or rear elevation be a minimum of 20 feet across will limit the design of the housing and would not serve a viable purpose to protect the health, safety and welfare of the community members. All of the other statement in section 8.5.2 would be required regardless of stating them in the zoning ordinance. *(shall comply in all respects with the Michigan State Construction Code Commission, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan State Construction Code Commission, then and in that event such federal or state standard or regulation shall apply.)* Therefore it is staffs opinion that the entire section 8.5.2 should be eliminated.
2. Under the Architectural regulations in 8.5.7 it currently states “*The dwellings shall not have less than two (2) exterior doors with the second one being in either the rear or side of the dwellings.*” If the commission reduces the minimum home size staff believe this requirement should be revised to state “*~~The~~ Dwellings over 600 square feet shall not have less than two (2) exterior doors with the second one being in either the rear or side of the dwellings.*”

RECOMMENDATION:

Staff suggests that the Planning Commission discuss and review the proposed zoning text amendment (ZTA20-001) regarding the regulations for building size and direct staff to prepare the draft Zoning Text Amendment and bring it back to the Planning Commission for a public hearing.

EXHIBITS

Exhibit A- APA: Minimum Requirements for Lot and Building Size

Exhibit B- Example ordinance amendment under option 3

EXHIBIT A

APA: Minimum Requirements for Lot and Building Size

HISTORIC PAS REPORT SERIES

PAS published its first Information Report in 1949. To celebrate this history, each month we're presenting a new report from the archives.

We hope you enjoy this fascinating snapshot of a planning issue of yesteryear.

Building Size Regulations

The Legal Aspects of Minimum Building Size Requirements

The courts have not looked with favor on minimum building size requirements. In most of the cases involving such provisions, the restrictions have been declared invalid. Only one case, a recent Texas decision, clearly supports a minimum building size requirement; several other cases have seemed to support such provisions, but have not been addressed directly to the question. Where a clear relation to health is demonstrable, there has been little difficulty. For example, the Indiana court upheld an ordinance requiring that a sleeping room contain 500 cubic feet of space for each person housed. (*Spitler v. Town of Munster*, 214 Ind. 75, 14 N.E. 2d 579, 115 A.L.R. 1995.) The courts have been slow, however, to recognize "emotional health" as a valid ground for such regulations. This is demonstrated in the case of *Lionshead Lake Inc. v. Wayne Township*, Passaic County, Superior Court of New Jersey, April 27, 1951, 80 A. 2d 650. In this case, the Superior Court of New Jersey held invalid a requirement that every dwelling erected in a Residence A District must have 1,000 square feet for a one-story dwelling. The defendant produced an outstanding and nationally-known public health expert who testified as to certain minimum requirements for residential purposes, but the expert admitted that his requirements were based not necessarily upon physical health but on emotional health as well. The court, in judging the ordinance to be invalid discounted this evidence and based its decision on the fact that the ordinance practically provided that no house costing less than a certain sum could be erected in the community. The court said:

"The ordinance, in its present form, therefore practically provides that no house costing less than a certain sum may be erected in the entire community" let alone a specific area, and this he cannot legally do . . . No person under the zoning power can legally be deprived of his right to

build a house on his land merely because the cost of that house is less than the cost of his neighbor's house."

The defense argued that property values would be harmed because of the appearance of the smaller homes, and because of the type of people who would be likely to occupy them. Other points raised were that the taxes paid on the lower cost houses would not be sufficient to cover the cost of municipal services and that the small homes were not conducive to physical or mental health. It was also pointed out that some eighty of the 300 zoning ordinances in New Jersey include minimum building size provisions. This case is now being appealed.

The courts have often used the argument that minimum dwelling size requirements are simply an indirect means for assuring the "economic exclusiveness" of a neighborhood, and have therefore found such regulations to be invalid. In an early case which involved an ordinance prohibiting single-story buildings in a residence zone, (*Brookdale Homes Inc. v. Johnson, et al.*, 10 A. 2d 477, New Jersey, 1939) the court stated that "no person under the zoning power can legally be deprived of his right to build a house on his land merely because the cost of that house is less than the cost of his neighbor's house." A similar opinion is expressed in the case of *American Veterans Housing Cooperative, Inc. v. Reginald M. Budd et al.*, in the Court of Common Pleas, Montgomery County, Pennsylvania (April 1949) No.6. The court, holding against a newly-adopted zoning ordinance establishing a sliding scale of minimum building sizes, stated in part:

"When the background and history of this amendment is considered, it appears as a thinly disguised attempt to regulate the cost of houses in a V Residence District, and thus make it impossible for the appellant to go forward with its proposed operation. It is an attempt to segregate economic classes, and this we believe cannot be accomplished by zoning."

This decision is significant, not only for the views expressed concerning economic segregation, but also for two other important statements. The first was a comment made in passing that "there seems to be no doubt that the township could require a minimum of habitable floor area *in all dwellings in the township*, (italics ours) so long as it is reasonable. . ." If this view becomes more widely accepted by the courts, and if a determination of reasonableness can be made which will define the minimum in excess of the accepted health code requirements, minimum building size regulations may be upheld more often in the future. A second important statement referred to the legality of sliding scale ordinances. The court said:

"It is rather difficult to see how a house containing 908 square feet of habitable floor area can promote the public health, safety and welfare of a T residence district where it is permitted by the ordinance, and detract from the public welfare in a V district where 1,400 square feet is the minimum . . ."

"The township commissioners may legislate on the floor area of rooms, for this has a **direct relationship to public health**, but could they say that the minimum floor area of a room in one district must be greater than the minimum floor area in another district? We think not . . ."

However, the Texas case in which minimum building requirements were upheld unequivocally involved an ordinance in which a sliding scale was established for the various residential districts. This case is *Thompson v. City of Carrollton*, 211 S. W. 2d 970, (Texas Civ. App., April 5, 1948). The City of Carrollton established a sliding scale of minimum building sizes requiring dwellings in the Residence B district to have an area of 900 square feet. When Thompson submitted plans for a house of only 752 square feet, he was denied a building permit since his

building did not conform to the zoning ordinance standard. The court ruled that the ordinance was not unreasonable and, according to a summary given in *Municipal Law Decisions*, October 1948, "relied on an earlier Texas zoning case in which it was found that 'harmonious appearance, appropriateness, good taste and beauty displayed in a neighborhood not only tend to conserve the value of property, but foster contentment and happiness among home owners.'"

Here, the court viewed both aesthetics and the preservation of property values as valid grounds for the exercise of police power. There are a number of cases, however, where such grounds have been rejected. In the Nebraska case of *Baker v. Somerville*, 293 N.W. 326 (1940), involving an ordinance requiring a two-story structure with 2,000 square feet of floor area, the court held the ordinance to be invalid. The court said in part:

"Beautiful city residences, homologous lines in architecture and symmetry in construction appeal to artistic tastes . . . and should be respected in connection with substantial zoning regulations for the promotion of the public welfare, but aesthetics alone for the purpose or zoning ordinances do not seem to be a source of police power, according to the weight of authority . . . the zoning ordinance under consideration . . . , on the sole basis of aesthetic standards, does not promote public health, safety, morals or the general welfare, and is therefore void."

Another case in which the court commented on aesthetics is *Frischkorn Construction Company v. Lambert, Building Inspector, et al.*, Supreme Court of Michigan, September 11, 1946, 24 N. W. 2d 209. The court found a regulation requiring a minimum cubic content of 14,000 cubic feet for new dwellings in an area in which most of the dwellings were one-story bungalows to be void since it would "not tend to protect or promote health, safety or public welfare." Further, the court said that although aesthetics may be an incident, it cannot be the moving factor in determining the validity of building restrictions under the police power.

In at least two Michigan decisions the courts have rejected the argument that minimum building size requirements should be sustained because of their relation to the protection of property values. In one of the basic cases with respect to minimum building size, *Senefsky v. Lawler*, 307 Mich. 728, 12 N.W. 2d 387 (1943), the court found that an ordinance which required a minimum of 1,300 square feet of usable floor space in a particular zone was unreasonable and void, since the restriction has no relation to public health, safety and welfare. It claimed that the fact that the restriction was designed to protect and preserve property values was insufficient to sustain its validity. A similar decision and opinion is contained in another Michigan case, *Elizabeth Lake Estates et al. v. Waterford Township*, Supreme Court of Michigan, April 8, 1947, 26 N. W. 2d 788. The zoning ordinance of Waterford Township contained minimum building size requirements for the various zones both in area and cubical content. The plaintiff proposed to build a house with less than the minimum cubical content. Testimony was introduced showing that the principal reason for the provisions was to maintain the standard in the district and to conserve the value of existing buildings in the subdivision. The Supreme Court held that these provisions were invalid and that the preservation of existing property values was not authorized by the zoning statute.

The preservation of property values is not mentioned in the Michigan zoning enabling legislation, but it is included in the enabling statutes of several other states. For example, in a law recently enacted by the state of Florida to amend Sections 168 and 170 of the Chapter of the City of Sarasota, Florida, states:

"that the said city has certain peculiar characteristics and qualities which attract tourists and visitors in great numbers and that these peculiar characteristics and qualities of said city justify zoning to protect not only the health, safety and general welfare of the public, but also the *preservation of property values and aesthetic considerations* with regard to business and residential areas . . . " (italics ours)

The Municipal Zoning Enabling Act of New Jersey contains a section on the purposes of zoning which reads as follows:

"Such regulations shall be in accordance with a comprehensive plan and designed for one or more of the following purposes: to lessen congestion in the streets; secure safety from fire, panic and other dangers; promote health, morals or the general welfare; provide adequate light and air; prevent the overcrowding of land and buildings; avoid undue concentration of population. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability, for particular uses, and *with a view of conserving the value of property* and encouraging the most appropriate use of land throughout such municipality." (italics ours)

There have been several cases in which minimum requirements have either been upheld or have gone unquestioned. In *Dundee Realty Company v. City of Omaha*, 144 Neb. 448, 13 N. W. 2d 634 (1944), the court upheld minimum area requirements of 1,200 square feet for two-story buildings and 1,000 square feet for one-story dwellings, saying that "such ordinance is not arbitrary or unreasonable, as applied to plaintiff's land, but is to the best interests of the city of Omaha . . . (and is) constitutional and valid." Another decision favorable for the future of minimum dwelling size regulation is to be found in *Flower Hill Building Corporation v. Village of Flower Hill*, Nassau County, Supreme Court (a lower court in New York State), Special Term, Nassau County, June 8, 1951, 100 N. Y. S. 2d 903. The petitioner contended that the Village exceeded its authority in legislating concerning minimum floor area, arguing that there is no relationship between livable floor area and public health, safety and general welfare. The court held that such regulations are not in themselves invalid and are invalid only if proved unreasonable in a particular case. The court said in part:

"I consider that it was the intent of the zoning statute to throw around each community an arm of protection in the form of a local zoning ordinance, which could insure its inhabitants against radical zoning changes (not necessitated by public demand and by changing conditions of the neighborhood) which would be detrimental to their established living conditions, their property values and the most desirable use of their land."

Still another case is *Kimsey v. City of Rome et al.*, Court of Appeals of Georgia, October 4, 1951, 67 S.E. 2d 206, in which a trailer occupied as a permanent dwelling was held to be a dwelling and required to conform to the zoning ordinance provision for a 700 square foot minimum area. The court did not go into the question of whether or not such minimum regulations are legal.

The Present Status of the Controversy

No simple and uncontroversial conclusions may be drawn from the multitude of court cases and opinions in the field of minimum building size regulation. **When we have eliminated the clearly legal regulations based upon accepted health standards and those regulations based upon economic cost discrimination which seem fairly sure to be held invalid,** there still remain many regulations which are neither legal nor illegal a priori. Despite the number of cases which have

been decided in opposition to minimum building size requirements, the courts have far from closed the door to future changes. In nearly every decision in which such regulations were held invalid, there are phrases which give hope to proponents of minimum requirements. For example, in the *Senefsky v. Lawler* case, if the opinion is studied carefully, it may be seen that the court has simply held that the minimum requirements were illegal as applied to the particular subdivision under consideration. In the Frischkorn case, likewise, the court felt that the requirement was unfair in this particular case because the majority of existing buildings in the area did not comply with the requirement. In the American Cooperatives case in Pennsylvania, the court recognized that the ordinance was enacted after substantial progress on the planning of the Veterans' project had been completed and was obviously intended as a means of obstructing these plans. This becomes clear when the facts concerning the history of the project and neighborhood opposition are studied. In the Elizabeth Lakes Estate case in Michigan, the court pointed out that the zoning ordinance was not comprehensive. It covered only two square miles of the community's 36 square mile area. There are similar loopholes in practically every case involving minimum building size ordinances, as Robert M. McClory points out in his article, "*The Undersized House: A Municipal Problem*," which appeared in the *Chicago-Kent Law Review* for March 1949, pp. 142–150. McClory states:

". . . Undersized dwellings, whether standing alone or in a row, are not only incompatible with the character of many of our residential areas, but, in the long run, cannot make for comfortable living. The adverse effect these three or four-room homes will have upon a residential community primarily consisting of substantial six to eight-room dwellings, erected when costs were lower, is obvious. To prevent that blight, the question of whether or not a municipal ordinance designed to regulate floor area and cubical content could be validly enacted is a matter of prime importance to many communities."

McClory contends that if the state zoning enabling statute is broad enough, the regulation of minimum size of dwellings falls within the police power of the municipality. He cites the Illinois act, which includes among the desired ends of zoning "(that) adequate light, pure air and safety from fire and other dangers may be secured, that the taxable value of land and buildings throughout the municipality may be conserved, that congestion in the public streets may be lessened or avoided, and that the public health, safety, comfort, morals and welfare may otherwise be promoted," as an example of a broad enough statute, since the regulation of minimum dwelling size is directed toward the conservation of tax values.

Some convincing arguments have been advanced in support of these regulations based upon the conservation of property values. One such argument is made in the often quoted dissenting opinion of Judge Bushnell in the *Senefsky v. Lawler* case.

"(Ordinances) having for their purpose regulated municipal development the security of home life, the preservation of a favorable environment in which to rear children . . . the safeguarding of the economic structure upon which the public good depends, the stabilization of the use and value of property . . . are within the proper ambit of the police power . . . The legislative authorities in the city of Huntington Woods are better acquainted with the necessities of their city than we are . . . They are also better able to determine whether the ordinance in question will accomplish the desired end result of stabilizing and preserving property values . . ."

Norman Williams, Jr. presents the other side of the subject in his article, "Minimum Building Size," which appeared on pages 130–131 of *The American City*, October 1951. Williams

believes that large minimum dwelling size requirements are undemocratic, and in reality "snob" zoning. He feels that the conservation of property values is not in itself sufficient justification for this particular zoning power, since "some of the factors affecting values provide a proper basis for the exercise of police power; others do not." To quote further from Mr. Williams' statement:

"Essentially the same point applies to the arguments about 'protecting the character of the neighborhood' and 'protecting the most appropriate use of land in the area' — phrases which are sometimes brought up as if they solved all problems. Such phrases, while satisfactory enough as broad indications of the general purposes of zoning, are too vague and abstract to serve as a satisfactory independent basis for the exercise of police power. For precise and meaningful legal analysis of the basis for excluding certain buildings from an area, it is necessary to be more specific. What characteristics of the neighborhood are referred to? What criteria are to be used in determining whether certain uses of land are appropriate to certain areas? Once these questions are asked . . . we are taken right back to the basic issue of snob zoning. As with the argument about property values, these general phrases cover basic points of policy which may or may not be tenable when stated frankly."

Williams points out some of the implications of permitting zoning to be used to exclude the less well-to-do groups from a community. It is contrary to all our beliefs concerning taxation and responsibility, he emphasizes, to permit wealthy citizens to live in one community with a low tax rate or a high level of services, while the poorer segments of the population are segregated in another community which, because of the economic level, cannot support even basic municipal services. This objection is particularly relevant in those metropolitan areas where the central city faces a reduction in its tax base as properties in the central city decline and wealthier residents move to surrounding suburban communities. Whether this objection still has validity where both the more exclusive and the less exclusive residential areas are contained within the same taxing jurisdiction is another problem. However, even if the economic reasons against segregation are dismissed, there still remain the social reasons against economic segregation.

An answer to Williams and a defense of minimum building size regulations are to be found in "More on Wayne Township and Minimum-Size Zoning," by Herbert H. Smith, which appeared in the November 1951 issue of *The American City* (pp. 133-134). Arguing that a large majority of the municipalities in New Jersey are suffering from excessive debt burdens and high tax rates, he advocates minimum dwelling size requirements as a means of protecting these communities from the increased burdens which would result if houses paying less in taxes than the community requires to supply them with services were permitted to mushroom in the community. He states:

"While I believe that every man should have the right to own a home, I am equally convinced that no public subsidy should be required if he is to have it."

The fact remains, however, that very few single-family dwellings ever pay their own way, and the majority are subsidized by the tax returns from industrial and commercial property in the community.

Summary

From the foregoing discussion it will be seen that there is not yet anything like a generally accepted standard for minimum building size, nor is there any clear assurance that the courts will accept minimum building standards. Generally, however, the evidence points to the following conclusions:

1. Minimum building size may be regulated where there is a clear relationship between such standard and health.
2. Such a relationship has not yet been proven conclusively for any minimum dwelling size greater than 600 square feet.
3. Such a relationship is fairly meaningless unless it is related to occupancy standards, i.e., the number of persons occupying the dwelling.
4. Such relation is more clearly related to building type than zone location, although even the relationship between building type and minimum area is open to question unless occupancy standards are somehow brought into the picture.
5. While there will undoubtedly continue to be a regulation of minimum building size through zoning, it may be that a stronger case can be built up for regulation through the building code and the housing code. It should also be remembered that regulation of minimum building size through private deed restrictions is possible, although this is not, of course, a field for municipal action.

*Edward M. Bassett, *Zoning; The Laws, Administration and Court Decisions During the First Twenty Years*, published by the Russell Sage Foundation, New York: 1940, pp. 86–87.

**These figures were taken from "Minimum Floor Area Requirements: Snobbery or Valid Protection?" Remarks of Herbert H. Smith before Seminar of the Institute of Local and State Government of the University of Pennsylvania, Jan. 10, 1952 (typed draft).

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EXHIBIT B

Schedule of Area, Height, and Bulk Regulations

District		Minimum Lot Area (Sq.Ft.) ^{1,6*}	Minimum Lot Width At Street (Feet) ^{2*}	Maximum Lot Coverage Buildings /Parking (%) ^{7*}	Minimum Yard Setback (Feet)			Maximum Building Height		Minimum Interior Space Sq.Ft./Unit	Additional Regulations Section 7.7
					F ^{3*}	S ^{4*}	R	Stories	Feet		
A.	CE – Country Estate Single Family Residential District	217,800	330	20/20	30	20	35	2.5	35	5*	Yes
B.	RAA-Low Density Rural Residential	87,120	200	20/20	30	20	35	2.5	35	5*	Yes
C.	RA-Medium Density Residential	43,560	125	35/40	25	10	30	2.5	35	5*	Yes
D.	RB-High Density Residential	10,000	70	35/40	25	8	30	2.5	35	5*	No
E.	RC-Multiple Family Residential	43,560 1st unit plus 2,500 sq.ft. each additional unit	150	35/40	30	20	35	2.5	35	450-Efficiency 650-1 Bedroom Unit 800-2 Bedroom Unit 1000-3 Bedroom Unit	Yes
F.	WFR-Waterfront Residential	43,560	125	35/40	25	10	30	2.5	35	5*	Yes
G.	NR-Natural River Residential	43,560	150	35/40	25	10	30	2.5	35	5*	Yes
H.	MHP-Mobile Home Park Residential	See Section 7.7.4.						2.5	35	See Section 7.7.4.	Yes

* See Footnotes

Section 7.6.1. Continued

Schedule of Area, Height, and Bulk Regulations

District		Minimum Lot Area (Sq.Ft.) ^{1,6*}	Minimum Lot Width At Street (Feet) ^{2*}	Maximum Lot Coverage Buildings/ Parking (%) ^{7*}	Minimum Yard Setback (Feet)			Maximum Building Height		Minimum Interior Space Sq.Ft./Unit	Additional Regulations Section 7.7
					F ^{3*}	S ^{4*}	R	Stories	Feet		
I.	NS-Neighborhood Service	10,000	80	40/75	25	20	25	2.5	35	None	Yes
J.	CS-Community Service	43,560	150	40/75	30	20	25	2.5	35	None	Yes
K.	LI-Limited Industrial	43,560	150	40/75	30	20	25	3	40	None	Yes
L.	GI-General Industrial	87,120	200	40/75	50	20	25	3	40	None	Yes
M.	OH-Old Hamburg	5,000	50	80/80	10	5	15	2.5	35	None	Yes
N.	MD-Mixed Development	43,560	150	40/65	40	20	25	3	40	None	Yes
O.	Village Residential	21,780 ^{9*} Residential with sanitary sewer: 14,000 ^{8,9,10*}	80	35/40 ^{11*}	20 ^{12*}	10	25	2.5	35	see note 145*	Yes
P.	Village Center	18,700 ^{9*} Residential with sanitary sewer: 10,600 ^{8,9,10*}	65	50/80 ^{11*}	see note 12*	10 ^{13*}	15	2.5	35	see note 145*	Yes
Q.	PPRF – Public & Private Recreational Facilities District	1,742,400	660	20/20	100	50	100	2.5	35	None	Yes

* See Footnotes

Footnotes to Section 7.6.1. Schedule of Area, Height, and Bulk Regulations

1. Minimum lot areas are for all uses within District unless otherwise specified in Section 7.5.1., Schedule of Use Regulations. Minimum lot areas are exclusive of public street right-of-way or private road access easements.
2. Minimum lot widths are required along the street upon which lot principally fronts. On cul-de-sacs or where a curvilinear street pattern results in irregularly shaped lots with non-parallel side lot lines, the following minimum lot widths shall apply:

<u>District</u>	<u>Minimum Lot Width at Right-of-Way</u>	<u>Minimum Lot Width at Building Line</u>
RAA	64 feet	106 feet
RA, WFR	64 feet	100 feet
RB	60 Feet	70 Feet
RC	100 Feet	150 Feet
NR	80 Feet	150 Feet

3. Minimum front yard setbacks are required as shown except where established buildings on adjacent lots vary from this minimum. In such case, a new building shall be constructed with a front yard of no less depth than the average front yards of buildings located on each side of the proposed building. In no case shall this provision be interpreted to allow a front yard of more than forty (40) feet or less than twenty (20) feet.

In any District, a principal building and all attached structures shall not be permitted within fifty (50) feet of the ordinary high water mark of any body of water unless otherwise stated as in Section 8.3.11 Accessory Structures..

In the Natural River Residential (NR) zoning district in addition to required front, side, and rear yard setbacks, all new buildings and structures shall be required to be setback a minimum of 125 feet from the ordinary high water mark, or if the ordinary high water mark cannot be determined, the setback shall be from the river's edge. The setback may be decreased ten (10) feet for every ten (10) foot rise in bank height to a minimum of seventy-five (75) feet from the ordinary high water mark.

4. On corner lots, both street yards shall provide the minimum front yard setback. The size of corner lots shall be large enough to accommodate both front yard setbacks and a building of a similar size to those on non-corner lots.

In the Water Front Residential (WFR) zoning district lots that have less than or equal to 60 feet lot widths shall be provided a reduced minimum side yard setback with an aggregate side yard setback of 15 feet.

In Neighborhood Service (NS) and Community Service (CS) Districts, a principal building may be constructed on or near the property line provided that the combination of the two side yards shall total twenty (20) feet and the building's side wall be a fire wall meeting building code. In all cases, one side yard shall be provided which is sufficient to permit the access of emergency vehicles to the rear of the building.

- 5. Minimum square footage above grade, excluding basements and parking for residential dwellings units, either single family, duplex or multi-family shall be ~~1000 square feet above ground, excluding basements as follows:~~

- Efficiency/Studio 400
- One bedrooms 500
- Two bedrooms 600
- Three bedrooms 700
- Four or more bedrooms 800

- 6. Lots shall contain a sufficient buildable site exclusive of any wetlands meeting the minimum zoning setback regulations plus off-street parking, septic disposal fields, well location and accessory building provisions.

- 7. The maximum lot coverage values are for the following:
 - a. Building Lot Coverage; the total footprint of buildings, divided by the site, excluding water bodies and wetlands.
 - b. Total Impenetrable Surface; the total footprint of buildings, parking, paved and gravel storage yards, driveways, streets, roads, and sidewalks, divided by the size of the site, excluding water bodies and wetlands.

Single family or two family residential lots may have up to an additional ten (10) percent lot coverage after approval of a grading and drainage plan, prepared by a registered engineer or a registered Landscape Architect and approved by the Township Engineer.

- 8. For multiple family dwellings with sanitary sewer, the following maximum densities shall be allowed:

	Maximum dwelling units per acre	
Housing type	Village Center	Village Residential

Apartments	10	8
Townhouses	8	6
Duplexes	6	5

9. The minimum lot area for residential (single and multiple family) may be reduced by up to twenty five (25) percent, provided that at least half the total area by which residential lots are reduced below the minimum lot size be provided as common open space, meeting the requirements of Section 7.7.9.
10. The minimum lot area for residential (single and multiple family) with sanitary sewer may be reduced to the sanitary sewer minimum lot size.
11. 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.
12. Buildings shall be placed no more than twenty (20) feet from the front lot line. A lesser setback may be required by the Planning Commission where the established setbacks of adjacent buildings is less than twenty (20) feet. Where the average front yard setbacks for the adjacent buildings on either side of the proposed use is greater than twenty (20) feet the Planning Commission may permit a front yard setback above twenty (20) feet but not to exceed the average front yard setbacks for the adjacent buildings. For a structure with a garage door facing a public street or private road, the accessory garage building, or the front wall of the attached garage, shall be setback a minimum of five (5) feet behind the front building line of the principal structure.
13. The side yard setback shall be a minimum ten (10) feet except a zero (0) foot setback may be permitted where the building abuts another building which is separated by an approved fire wall.
- ~~14. Minimum floor area per dwelling unit shall be as follows:~~
 - ~~a. Single family/Duplex – 1000 square feet~~
 - ~~b. Multiple family: Efficiency – 450 square feet~~
 - ~~1 Bedroom Unit – 550 square feet~~
 - ~~2 Bedroom Unit – 650 square feet~~
 - ~~3 Bedroom Unit – 800 square feet~~

Section 8.5 Single-Family Dwellings, Mobile Homes, Prefabricated Housing

No single-family dwelling (site built), mobile home, modular housing, or prefabricated housing located outside a mobile home park or mobile home subdivision shall be permitted unless said dwelling unit conforms to the following standards:

8.5.1 Square Footage. Each such dwelling unit shall comply with the minimum square footage requirements of this Ordinance for the zone in which it is located.

~~**8.5.2 Dimensions.** Each such dwelling unit shall have a minimum width across any front, side, or rear elevation of twenty (20) feet and shall comply in all respects with the Michigan State Construction Code Commission, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan State Construction Code Commission, then and in that event such federal or state standard or regulation shall apply.~~

~~**8.5.32 Foundation.** Each such dwelling unit shall be firmly attached to a permanent foundation constructed on the site in accordance with the Michigan State Construction Code Commission and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code. All dwellings shall be securely anchored to the foundation in order to prevent displacement during windstorms.~~

8.5.43 Undercarriage. Dwelling units shall not be installed with attached wheels. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.

8.5.54 Sewage Disposal or Water Supply. Each such dwelling unit shall be connected to a public sewer and water supply or to such private facilities approved by the local health department.

8.5.65 Storage Area. Each such dwelling unit shall contain a storage capability area either in a basement located under the dwelling, in an attic area, or in a separate or attached structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10 percent of the square footage of the dwelling or 100 sq ft, whichever shall be less.

8.5.76 Architecture. All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity. All homes shall have a roof overhang of not less than six inches on all sides. ~~The~~ ~~d~~ ~~D~~ ~~d~~ ~~w~~ ~~e~~ ~~l~~ ~~l~~ ~~i~~ ~~n~~ ~~g~~ ~~s~~ ~~o~~ ~~v~~ ~~e~~ ~~r~~ ~~6~~ ~~0~~ ~~0~~ ~~s~~ ~~q~~ ~~u~~ ~~a~~ ~~r~~ ~~e~~ ~~f~~ ~~e~~ ~~e~~ ~~t~~ shall not have less than two (2) exterior doors with the second one being in either the rear or side of the dwellings. Steps shall also be required for exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

8.5.87 Compatibility Determination. The compatibility of design and appearance shall be determined in the first instance by the Township Zoning Administrator. Any determination of compatibility shall be based upon the character, design, and appearance of one or more residential dwellings located outside of mobile home parks within two thousand (2,000) ft. of the subject dwelling where such area is developed with dwellings to the extent of not less than 20 percent of the lots situated within said area; or, where said area is not so developed, by the character, design, and appearance of one or more residential dwellings located outside of mobile home parks throughout the Township. The foregoing shall not be construed to

prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

8.5.98 Additions. Each such dwelling unit shall contain no addition or room or other area which is not constructed with similar quality, materials and workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

8.5.109 Code Compliance. Each such dwelling unit shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus, and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

8.5.140 Building Permit. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan State Construction Code provisions and requirements.

8.5.121 Exceptions. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this Ordinance and pertaining to such parks. Mobile homes which do not conform to the standards of this section shall not be used for dwelling purposes within the Township unless located within a mobile home park or a mobile home subdivision district for such uses, or unless used as a temporary residence as otherwise provided in this Ordinance.