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Planning Commission  
Hamburg Township  
10405 Merrill Rd., P.O. Box 157  
Hamburg Township, Michigan 48139  
August 21, 2019  
7:00 p.m.

**1. CALL TO ORDER:**

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

Absent: Priebe

Also Present: Scott Pacheco, Township Planner & Brittney Stein, Zoning Coordinator

Motion by Hamlin, supported by Koeble

To appoint Jeff Muck as Acting Chairperson

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

**2. PLEDGE TO THE FLAG:**

**3. APPROVAL OF THE AGENDA:**

Motion by Koeble, supported by Muir

To approve the agenda as presented

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

**4. APPROVAL OF MINUTES:**

A. June 19, 2019 Planning Commission Minutes

Motion by Muir, supported by Koeble

To approve the minutes of the June 19, 2019 meeting as presented

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

**5. CALL TO THE PUBLIC:**

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

**6. NEW BUSINESS:**

A. Election of Planning Commission Chair, Vice Chair, and Secretary.

Planner Pacheco stated that every year the Commission elects a Chairperson, Vice Chair and Secretary.

Commissioner Muir nominated Joyce Priebe as Chairperson. Discussion was held on any conflict as she is Chair of the Zoning Board of Appeals. Commissioner Leabu stated that she indicated that she did not want to be Chair. Pacheco stated that he would have to look at the Planning Commission By-laws to find out if there is a conflict. He further stated that a Township Board Member cannot be Chair.

Discussion was held on appointing Jeff Muck. Commissioner Much stated that he would be comfortable with being Chair.

Motion by Hamlin, supported by Koeble

To appoint Jeff Muck as Planning Commission Chairman

Commissioner Muck stated that he appreciates the opportunity and hopes that he can bring his municipal experience to the table.

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

Chairman Muck stated that he would like to recognize Chairman Goetz for his commitment to the Planning Commission and the Township. He has a long history of sitting at this table and did a lot for the Township. Koeble stated that at the last Board meeting, the Board recognized him for his years of service and presented him with a plaque.

Discussion was held on the duties of the Vice-Chair. It was stated that the Vice-Chair would chair the meetings in the absence of the Chairperson. Pacheco stated that it is unclear if Joyce Priebe could hold the position of Vice-Chair or Secretary. We could wait to appoint her to one of the two positions until we can review the by-laws or we could make the appointment and rescind it and reappoint at the next meeting. Discussion was held on the duties of the Secretary. Pacheco stated that they use to take the minutes, however they do not do that anymore. They would be third in command if the Chair and Vic-Chair were absent.

Chairman Muck asked Commissioner Muir if he would accept Vice Chair. Commissioner Muir stated that he would accept it.

Motion by Muck, supported by Hamlin

To appoint Ron Muir as Planning Commission Vice-Chairman

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

Motion by Muck, supported by Koeble

To appoint John Hamlin as Planning Commission Secretary

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

- B. Special Use Permit (SUP19-002) and Site Plan Review (SPA 19-002) applications: Public Hearing to consider a major amendment to the special use permit and site plan approved in 2001 which allowed the IXL learning Center at 10088 Professional Center Drive. The amendment will increase the square footage within the structure that will be occupied by the IXL Learning Center and will increase the number of employees and the number of children cared for on this site. This amendment proposes little to no changes to the exterior of the building or the site improvements on the lot.



Chairman Muck opened the public hearing for SUP 19-002 & SPA 19-002. Hearing no comment, the public hearing was closed.

Planner Pacheco discussed the staff report and the project to expand an existing special use permit at 10088 Professional Center Drive, the IXL Learning Center. It is a childcare center, which is a permitted use with a special use permit under the Village Center Zoning District. He explained their proposal to expand a special use permit and site plan that was approved in 2001. He gave a brief history of the facility. He stated that they are looking to expand into the entire building or 11,104 square feet. They are requesting to expand the number of children from 58 children to 180. The Fire Marshall would have to provide final review prior to the approval of the expanded special use permit. Nothing is changing on the exterior of the building. He further explained the site plan and exterior requirements. He discussed the general ordinance regulations. He explained the approvals required from the Fire Department, State of Michigan Department of Human Services and Child and Adult Licensing Regulations. He explained the requirements based on the size of the facility and the size of the outdoor play area. They are asking that the Planning Commission look at this through the special use permit process and determine if that lot size is allowed. There is adequate parking on the site and adequate circulation for drop-off and pick-up. The surrounding properties are currently vacant, and with what they are allowed to develop, the childcare center would be a compatible use. The other thing that needs to be looked at is the fenced in play area. They have to receive approval from the State. The State has a very low threshold on the fencing, and what they are proposing is higher than the State requires. The Planning Commission can look at the surrounding properties, their schedule, the number of infants that would not be using the area, etc. to base their decision whether the fenced in area they are proposing is adequate. He discussed the parking on the site. Based on the calculations, they are required to have 50 parking spaces, and they currently have the use of 63 spaces. He discussed the special use permit standards. He stated that a lot of these items were dealt with during the original site plan approval. He further discussed the parking spaces along Professional Center Drive which were originally designed to be parallel parking spaces. With the absence of the striping, people have started parking perpendicular. Restriping that parking lot to delineate the sidewalk would be helpful. Also, there should be a maintenance agreement for the sidewalk as it is in disrepair. More than likely nobody is using those sidewalks because there is no development back there. If development were to go in, we would want the sidewalk repaired. He has spoken to the Utilities Department. This use would require less REUs than the existing uses so there will be no additional fees required. He discussed the Site Plan Approval Standards. Most of these items have been taken care of because the use is a compatible use. Again, the two issues the Planning Commission needs to talk about is 1) is the size of the lot adequate, and 2) is the size of the fenced-in area adequate to move forward.

Jennifer Moss, applicant, was present.

Commissioner Muir stated that according to the Center's handbook, there is overlap where the 50 toddlers and 80 preschoolers will be out at the same time. Ms. Moss stated that they do switch the schedules around all of the time. She stated that they have three playgrounds and nine classrooms. With the three playgrounds and three classrooms that do not go outside, it is not an issue. She stated that playgrounds have been added since the time that particular handbook was written. Discussion was held on the conflicting information received. Ms. Moss stated that the processes are constantly changing depending on the enrollment. She stated that they have three playgrounds to purposely keep them separated because 2 year olds and 4 year olds play differently. One classroom at a time goes out to a certain playground. Discussion was held on the age groups. Ms. Moss stated that they are licensed up to 12 years old, but they only have up to 8-9 year olds. Pacheco suggested a condition of approval to be that no more than a certain number of kids can be using the playground at a time. It could be posted just like you would an occupancy on the inside of a building. Discussion was held on the number of children the playground could handle. Ms. Moss stated that with the three sections, it could easily handle 68 children at a time. It was stated that it still needs to go through the licensing as well. Discussion was held on the State requirements. It was stated that they require 1,200 square feet or more depending on inspection.

Discussion was held on the Commission's options for approval or denial. It was stated that the site plan does go to the Township Board for their approval as well. Further, the ordinance does allow the Planning Commission to allow a smaller size than the 100 square feet, but it must meet State requirements.



Commissioner Leabu gave a history of the road going to the back property. He stated that there was not sidewalk where the childcare building is. However, there is a need to have the parking striped so that people do not park perpendicular. Pacheco stated that the site plan approved in 2001 shows the sidewalk from the north property line to the rear and shows how the parking should be striped. It was further stated that the sidewalk was never completed all the way down.

Discussion was held on requiring a maintenance agreement for the road and sidewalks. Pacheco stated that if the original site plan was approved today, we would require an agreement. There is not currently a problem because nobody is using this for access. If there is a future development that comes in and uses this roadway, we would want this road and sidewalk maintained. It appears that the sidewalk was not completed per the site plan, which is a code enforcement issue. We could wait until development takes place in the back. Discussion was held on the layout of the two separate parcels. Commissioner Hamlin stated that he feels that there should be something in writing that if the property to the south and east is developed, the applicant is responsible for putting in that sidewalk. He also feels that a road maintenance agreement should be in place.

Motion by Leabu, supported by Koeble

The Planning Commission approves the major amendment to the Special Use Permit (SUP19-002) to allow the child care center use to expand into the entire building (11,000 sq. feet) at 10088 Professional Center Drive, as shown on the project plan, and to increase the number of children care for on the site to 180 children; because the major amendment to the special use permit meets all the discretionary standards for Special Use Permits under Article 3 as described at tonight's hearing and as presented in the Staff Report provided that the parking lot is re-striped including the parallel parking along both sides of the east roadway

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

Motion by Leabu, supported by Koeble

The Planning Commission recommends to the Township Board approval of the Site Plan Application (SPA19-002) to allow the expansion of the IXL learning Center because the project meets all of the discretionary standards for Site Plan Review under Article 4 as described at tonight's hearing and as presented in the Staff Report. Any future development on the vacant property to the south or east would be allowed access to Professional Center Drive through this site as designed.

Discussion was held on the future development. Pacheco stated that you would be requiring them to allow future development to access through this site. That future developer would be required to do that if they were to use this property. By the Planning Commission doing that as part of this site plan, you are making it easier for the back lot to develop. There may be wording in the original approvals that talk about cross-access easement requirements.

Discussion as held on the road standards at the time of the original site plan. Discussion was held on access for the property to the east.

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

- C. Zoning Text Amendment (ZTA) 19-004: Public Hearing to consider the ZTA to revise the Planned Unit Development regulations in Articles; 13 Planned Unit Development, 14 Open Space Community PUD, 15 Elderly Cottage Housing Opportunity (ECHO) Village, 16 Hardship Planned Unit Development and 17 Commercial Planned Unit Development of the Zoning Regulations. The proposed revisions to these Articles are intended to consolidate, clear up the intent and clarify the processes and wording of the PUD regulations.

Chairman Muck opened the public hearing for ZTA 19-004. Hearing no comment, the public hearing was closed.



Planner Pacheco stated that the Commission discussed this amendment at length at the last two meetings. This is an amendment to consolidate our existing PUD Ordinance. He gave a brief summary of the changes.

Commissioner Hamlin stated that he is still opposed to the 15% density increase. He stated that we get our open space then give the developer 31+ % density increase and then give them an additional 15% for an exemplary project. Now we are looking at changing the ordinance to allow an additional 15% increase. These open space ordinances only apply to medium and low-density areas of the Township which are not designed for high density. We have a Master Plan that allows for a specific area for dense development, and he feels that we should maintain the dense development in that area. 100% of our public input was against the density increase, and he is sure that a super-majority of our Township residents would feel the same. He feels that the density development almost exclusively benefits the developer and not the Township as a whole.

Commissioner Leabu stated that he totally promotes it these amendments. Our initial 30% density bonus is not actually a density bonus. Our community was going to have that many units anyway, so you have to remove that 30%. It is an illusion. The open space was so that we could preserve the natural features and sensitive areas. The proposal makes it very difficult to get 15% bonus with all of the standards. With the 15% bonus if the developer provides sewers, now we would be getting 60% open space.

Commissioner Muck stated that we hashed this out significantly at the last meeting. He had been undecided about the 15% increase for sewer, but when we changed it to 60% preservation, he was in agreement.

Motion by Leabu, supported by Koeble

The Planning Commission recommends to the Township Board approval of the Zoning Text Amendment (ZTA) 19-004 to revise the Planned Unit Development regulations in Articles; 13 Planned Unit Development, 14 Open Space Community PUD, 15 Elderly Cottage Housing Opportunity (ECHO) Village, 16 Hardship Planned Unit Development and 17 Commercial Planned Unit Development of the Zoning Regulations. The proposed revisions to these Articles are intended to consolidate, clear up the intent and clarify the processes and wording of the PUD regulations.

Voice vote: Ayes: 4                      Nays: 1                      Absent: 1                      MOTION CARRIED

- D. Zoning Text Amendment 19-005: Public hearing to consider ZTA to revise the fence regulations in Article 8, Section 8.15 Fences, Walls and Screens. The proposed revisions are meant to clarify the regulations regarding the location and height regulations for new fences.

Chairman Muck opened the public hearing for ZTA 19-005. Hearing no comment, the public hearing was closed.

Planner Pacheco stated that we discussed this revision at a previous meeting at which there were no suggested changes by the Planning Commission. He gave a brief description of the proposed changes. He has added the pictures to further clarify the regulations.

Motion by Muir, supported by Koeble

The Planning Commission recommends to the Township Board approval of Zoning Text Amendment 19-005 to revise the fence regulations in Article 8, Section 8.15 Fences, Walls and Screens. The proposed revisions are meant to clarify the regulations regarding the location and height regulations for new fences.

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

- E. Zoning Text Amendment 19-006: Public Hearing to consider ZTA to revise the variance regulations in Article 6, Section 6.8 Zoning Board of Appeals. The proposed revision is to change the variance approval period from six months to 12 months.



Chairman Muck opened the public hearing for ZTA 19-006. Hearing no comment, the public hearing was closed.

Zoning Coordinator Stein stated that we have had recent instances where the required time period between the time ZBA has approved a variance and construction has elapsed. This may be because of delay in approval letters from utilities or other required paperwork or possibly frozen ground, etc. The six-month time period may not be enough to pull the land use permit, building permit and start construction. This amendment will change that time period from six months to twelve months.

Motion by Muir, supported by Hamlin

The Planning Commission recommends to the Township Board approval of Zoning Text Amendment 19-006 to revise the variance regulations in Article 6, Section 6.8 Zoning Board of Appeals. The proposed revision is to change the variance approval period from six months to twelve months.

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

- F. Zoning Text Amendment 19-007: Public Hearing to consider ZTA to revise the attached accessory structure regulations in Article 8, Section 8.3.1 Accessory Buildings and Structures. The proposed revision is meant to clarify the regulations regarding the intent of attached accessory structures.

Chairman Muck opened the public hearing for ZTA 19-007. Hearing no comment, the public hearing was closed.

Zoning Coordinator Stein stated that this section of the ordinance may be misleading. She gave the definition of patio per the ordinance. The intent of the ordinance in this case is that an accessory structure would be something attached by at least a roof. We are asking that the word patio be removed.

Discussion was held on how this was brought forward. It was stated that there are different requirements for detached versus attached accessory structures. Discussion was held on the definition of a roof.

Commissioner Hamlin stated that in Section 8.3.6(b) it indicates that fences at pools can be up to 8 feet. We just restricted our fences to 6 feet. Pacheco stated that we should revise that and can be done as part of this revision.

Planner Pacheco stated that all of these revisions will go to the Livingston County Planning Commission prior to going to the Township Board.

Chairman Muck stated that the Public Hearing was for changing 8.3.1 and now we are talking about 8.3.6. Pacheco stated that we are going to have to re-notice it for public hearing, but it is not critical at this point. They would not be allowed an 8 foot fence around a pool anymore, but it is still written in there and should be revised. It was stated that the Commission could approve this amendment with the recommendation that we bring back 8.3.6. We will put them both to Livingston County at the same time.

Motion by Leabu, supported by Hamlin

The Planning Commission recommends to the Township Board approval of Zoning Text Amendment 19-007 to revise the attached accessory structure regulations in Article 8, Section 8.3.1 Accessory Buildings and Structures. The proposed revision is meant to clarify the regulations regarding the intent of attached accessory structures. It is further requested that revisions to Section 8.3.6 be brought back to the Planning Commission for approval.

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

7. **OLD BUSINESS:** None

## 8. ZONING ADMINISTRATOR'S REPORT:

### A. Training opportunities:

#### 1. Michigan Association of Planners Annual Conference

Planner Pacheco stated that he and Amy Steffens will be attending. It is being held in Kalamazoo September 25-27<sup>th</sup>.

Chairman Muck stated that he will also be attending. He stated that there are also options for single day events.

Planner Pacheco stated that there is another training opportunity in Chelsea on September 5<sup>th</sup>. It is a site plan review class conducted by the Michigan Association of Planners.

Planner Pacheco stated that he has received the annual update from Regency Village. He will bring it to the next meeting. It provides an update of where they are in the process. They have pulled permits for 11 homes. He further discussed their progress.

Planner Pacheco gave an update of the senior care facility.

Commissioner Leabu stated that it has been discussed to try and get rid of the 1,000 square foot minimum home requirement. If the Commission agrees, he would like to look at that issue. Pacheco stated that this is an item that we talked about at our February joint meeting. We will have to discuss the pros and cons. We have found that with the current climate, people are buying the smaller homes but still with all of the amenities. Chairman Muck stated that based on this discussion and the discussion at the February meeting, staff will be bringing this back at a future meeting. Pacheco stated that Article 8 has all of the single family requirements and we did talk about revising all of those outdated regulations. There is less concern over mobile or modular homes.

## 9. ADJOURNMENT:

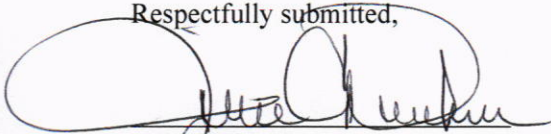
Motion by Koeble, supported by Leabu

To adjourn the meeting

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

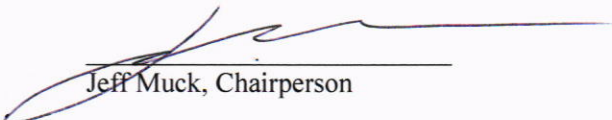
The Regular Meeting of the Planning Commission was adjourned at 8:57 p.m.

Respectfully submitted,



Julie C. Durkin  
Recording Secretary

The minutes were approved as presented/Corrected: 11-20-19



Jeff Muck, Chairperson