

**GENOA CHARTER TOWNSHIP
PLANNING COMMISSION
PUBLIC HEARING
NOVEMBER 9, 2015
6:30 P.M.
AGENDA**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

APPROVAL OF AGENDA:

CALL TO THE PUBLIC:

(Note: The Board reserves the right to not begin new business after 10:00 p.m.)

OPEN PUBLIC HEARING #1... Review of proposed Master Plan Update.

Planning Commission disposition of Resolution (requires roll call vote)

- A. Request for Approval of Resolution Adopting Updates to the Master Plan related to Future Land Use Map and Growth Boundary Map.

Administrative Business:

- *Staff report*
- *Approval of October 26, 2015 Planning Commission meeting minutes*
- *Member discussion*
- *Adjournment*



October 30, 2015

Planning Commission
Genoa Township
2911 Dorr Road
Brighton, Michigan 48116

Attention:	Kelly Van Marter, AICP Assistant Township Manager and Planning Director
Subject:	Proposed Amendments to the 2013 Township Master Plan – End of Review Period

The review period is nearing its conclusion for the minor amendment to the Township's Master Plan. The following changes to maps are proposed for this update. Please see the attached maps for specific locations to be changed.

- On Map 7: Future Land Use, an area has been changed from Small Lot Single Family (2 to 3 units per acre) to Low Density Single Family (1 acre per unit) residential. The corresponding area has also been changed on Map 8: Growth Boundary, from a Primary Growth Area to a Secondary Growth Area.
- On Map 7: Future Land Use, Township staff precipitated a change for the property on Chilson Road (formerly known as Aspen Glen) after internal discussion and meeting with prospective purchasers from MDR to HDR.

Since neither area is referenced specifically in the text, only these two maps have changed and the rest of the plan would remain as adopted in 2013.

During the review period, comments were received from the City of Brighton, Livingston County Planning Commission, City of Howell, and Hartland Township, all of which were supportive of the changes proposed.

The next steps in the process to adopt this amendment are as follows:

- November 9: Following the 42-day review period, Planning Commission conducts a public hearing, reviews any comments received, adopts the amended plan, and forwards to Township Board for their approval
- December 7: Township Board adopts amended plan.

Should you have any questions concerning this matter, please do not hesitate to contact our office. We can be reached by phone at (248) 586-0505, or via e-mail at borden@lslplanning.com and duffy@lslplanning.com.

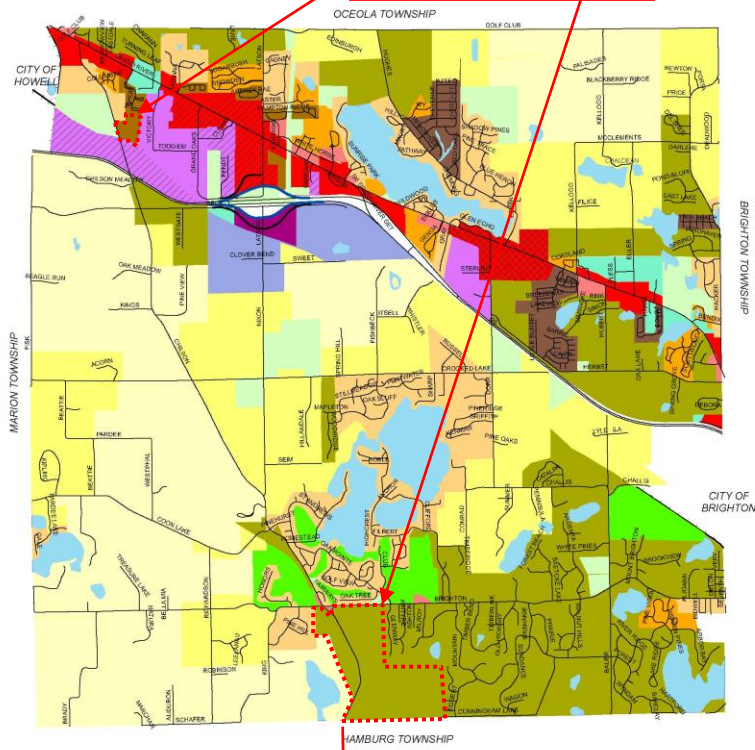
Sincerely,

LSL PLANNING, INC.

Brian V. Borden, AICP
Principal Planner

Kathleen Duffy, AICP
Project Planner II

Draft Map Amendments



MAP 7
Future Land Use
 Master Plan Update
 Genoa Township
 Livingston County, MI

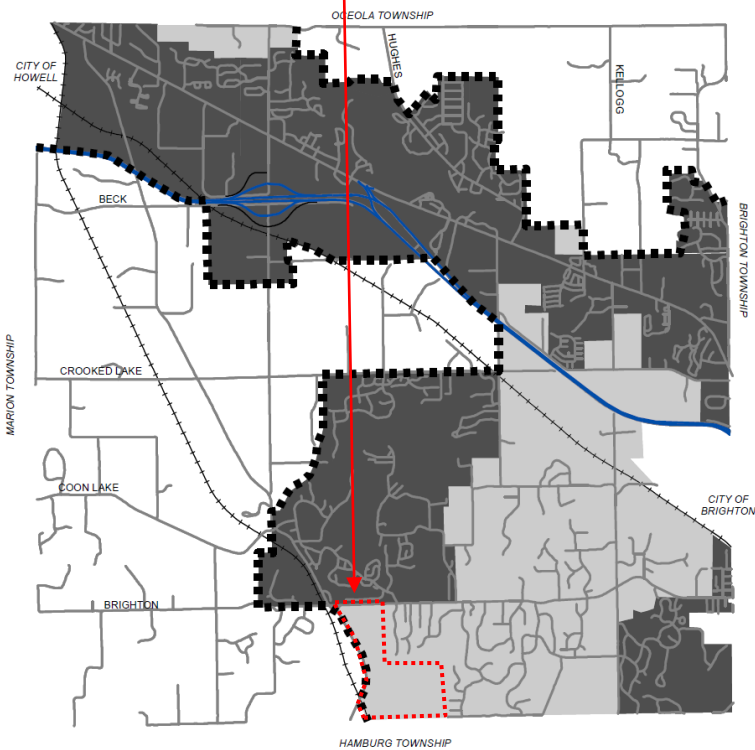
- AGRICULTURE/COUNTRY ESTATE - 5 acres per unit
- LARGE LOT RURAL RESIDENTIAL - 2 acres per unit
- LOW DENSITY RESIDENTIAL - 1 acre per unit
- SMALL LOT SINGLE FAMILY RESIDENTIAL - 2 to 3 units per acre
- MEDIUM DENSITY RESIDENTIAL - 5 units per acre
- HIGH DENSITY RESIDENTIAL - 8 units per acre
- MANUFACTURED HOUSING
- NEIGHBORHOOD COMMERCIAL
- GENERAL COMMERCIAL
- REGIONAL COMMERCIAL
- MIXED-USE TOWN CENTER
- OFFICE
- INDUSTRIAL
- RESEARCH AND DEVELOPMENT
- PUBLIC/INSTITUTIONAL/UTILITIES
- PRIVATE RECREATION
- INTERCHANGE CAMPUS
- INTERCHANGE COMMERCIAL

October 2015

0 0.25 0.5 1 1.5 Miles

Sources: MCGI, Livingston County, Genoa Twp

LSI Planning
 A Division of LSI Group, Inc.



MAP 8
Growth Boundary
 Master Plan Update
 Genoa Township
 Livingston County, MI

- Growth Boundary
- Primary Growth Areas
- Secondary Growth Areas
- Rural Reserve Areas

August 2015

0 0.25 0.5 1 1.5 Miles

Sources: MCGI, Livingston County, Genoa Twp

LSI Planning, Inc.
 A Division of LSI Group, Inc.

**RESOLUTION OF THE PLANNING COMMISSION
ADOPTING UPDATES TO THE MASTER PLAN
AND FUTURE LAND USE MAP**

Genoa Charter Township
Livingston County, Michigan

At a regular meeting of the Planning Commission of Genoa Charter Township, Livingston County, Michigan, held on November 9, 2015, at 6:30 p.m. prevailing local time.

PRESENT:

ABSENT:

The following Preamble and Resolution were offered by Commissioner _____ and supported by Commissioner _____:

WHEREAS, Genoa Charter Township initiated a process to update the Master Plan for Land Use which was adopted in 2013; and

WHEREAS, the Genoa Charter Township Planning Commission, pursuant to the Michigan Planning Enabling Act (Public Act 33 of 2008, as amended), has studied and prepared recommendations for the use, development and preservation of all lands in the Township; and

WHEREAS, the Planning Commission has developed an update to the Master Plan consisting of research and analyses dealing with land use and utility limitations; and

WHEREAS, the Planning Commission has used the Master Plan analyses to prepare an update to the Future Land Use Map and Growth Boundary Map that allocates land in appropriate amounts for the future development of residential uses in sections 6, 33 and 35; and

WHEREAS, on September 14, 2015, the Planning Commission submitted the plan to the Township Board of Trustees for distribution; and

WHEREAS, on September 21, 2015 the Genoa Charter Township Board of Trustees authorized distribution of the Master Plan as provided by the Michigan Planning Enabling Act (MPEA); and

WHEREAS, the Township complied with required plan development steps of notifying and involving the Livingston County Planning Commission, surrounding communities and outside agencies; and

WHEREAS, the Planning Commission held a public hearing on November 9, 2015, and considered all comments and concerns of the public; and

WHEREAS, the Planning Commission recognizes that the Master Plan and Future Land Use Map are

guides for public and private decision-making that will keep the Township in motion toward its vision to maintain outstanding quality of life for all residents; and

WHEREAS, the Township Board as authorized by the MPEA has asserted its right to approve or reject the proposed updated Master Plan.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of Genoa Charter Township hereby adopts the updated Future Land Use Map and Growth Boundary Map and resolves to use the Plan and Map together as a guide for the overall development of the Township;

IT IS FURTHER RESOLVED that the Planning Commission wishes to present the Master Plan with an updated Future Land Use Map and Growth Boundary Map as adopted herein to the Township Board for approval or rejection as set forth in Resolution #120402.

AYES:

NAYS:

ABSENT:

ABSTENTIONS:

RESOLUTION DECLARED ADOPTED

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Planning Commission of Genoa Charter Township, Livingston County, Michigan, at a regular meeting held on November 9, 2015.

Douglas Brown
Chairman, Genoa Charter Township Planning Commission

**THE FOLLOWING MATERIAL IS SUBJECT TO THE ATTORNEY
CLIENT PRIVILEGE AND EXEMPT FROM DISCLOSURE**

GENOA CHARTER TOWNSHIP

**Opinion Regarding Township's Liability in amending the Master Plan to
Change the Zoning for the area South of Brighton Road and East of
Chilson Road from Small Lots Single Family Residential (2-3 units per
acre) to Low Density Residential (1 acre per unit)**

October 30, 2015

Background:

On November 6, 2006, the Township created a Special Assessment District to pay for a study on the feasibility of extending the Oak Pointe Water System to the area South of Brighton Road and East of Chilson Road. The study was in part necessitated by a sodium chloride plume coming from the Oak Pointe Water Treatment Plant that was migrating to that area. This area was experiencing great interest for future development and in fact at least one major development was proposed. In anticipation of future development, this area of Township's Master Plan and Future Land Use Map was amended to a designation of Small Lot Single Family Residential (2-3 units/acre). It was anticipated that the Township would extend its water supply system to this area to accommodate the anticipated development.

In 2003 – 2004 Crescendo Homes petitioned the township to rezone a 191 acre parcel south of Brighton Road and east of Chilson Road, known as the Preserve of Genoa, from AG (agricultural) to RPUD (residential PUD). On March 15, 2004 the Township Board approved (1) the rezoning of the Property to MUPUD (mixed use PUD), (2) the conceptual PUD plan with conditions, (3) the PUD Agreement with conditions and (4) the impact assessment with conditions. It appears that a final PUD Agreement incorporating all of the conditions approved by the Board was never finalized or executed. When the recession hit in 2008 interest in developing this area came to a screeching halt. Crescendo subsequently lost the property to tax foreclosure. No significant development of this area has occurred since that time.

In 2011 the Crescendo property went up for tax sale. Steven Gronow purchased two parcels totaling 72 acres; Lucy, LLC purchased three parcels totaling 110.5 acres; and David Paskorella purchased one parcel containing 3.2 acres. The Lucy Parcels and the Paskorella parcels are presently designated on the Township Zoning Map as MUPUD. The Chestnut Development parcels are presently designated as Agricultural (AG). The remainder of the property in the subject area is zoned Low Density Residential (LDR) except the parcel on the Southeast corner of Brighton Road and Chilson Road which is zoned Suburban Residential (SR). LDR requires one acre minimum and SR requires ½ acre with public sanitary sewer service and 1 acre without public sanitary sewer service.

In 2014, the Township Utility Department began a project to upgrade the Genoa-Oceola waste water treatment plant (WWTP) and to convert the Oak Pointe WWTP to a pumping station. The project was initiated to eliminate sodium discharge from the Oak Pointe WWTP into the water supply thereby to improve the health, safety and welfare of the community. The project was completed in the summer of 2015. The WWTP system upgrade eliminated the discharge of sodium chloride into the ground water and the need to extend the water supply system to the subject area. As such, there are no immediate plans to extend the water supply system (i.e., the water main) to the subject area.

Issue:

If the Township were to amend its Master Plan and Future Land Use Map to revert the designation of the subject area from Small Lot Single Family Residential (2-3 units/acre) to Low Density Residential (1 acre per unit) would such change in designation subject the Township to claims for regulatory takings or other liability?

Analysis:

The Fifth Amendment to the United States Constitution prohibits the federal government from taking property for public use without just compensation. This prohibition is extended to the states (and its subdivisions) under the Due Process clause of the Fourteenth Amendment which bars state government from depriving people of their property without due process of law and is also found in Article 10, Section 2 of the Michigan Constitution of 1963. A regulatory taking is a claim by a land owner that governmental regulation, such as zoning, limits the uses of private property to such a degree that the regulation effectively deprives the property owner of economically reasonable use or value of his/her property to such an extent that it deprives them of the utility or value of that property. In *Pennsylvania Coal Co v Mahon*, 260 US 393, 415 (1922) Justice Holmes stated that a police power regulation that goes “too far” can amount to a taking of private property.

Where a government’s action merely diminishes the owner’s ability to freely use his/her land, the courts apply a balancing test that is known as the *Penn Central* balancing test. In *Penn Central Transp. Co. v. New York City*, 438 U.S. 104, 124 (1978) the Court identified three factors that are significant in evaluating a regulatory taking: (1) the character of the government’s action, (2) the economic impact on the landowner, and (3) whether the regulation interfered with the landowner’s distinct investment-backed expectations. The facts of this matter are analyzed against these elements below.

I. The Character of Genoa’s action.

The Court in *Chelsea Inv. Group, LLC v. City of Chelsea*, 288 Mich App 239 (2010) stated that “[t]he relevant inquiries regarding the character of the government’s action is whether it singles [a] plaintiff out to bear the burden for the public good and whether the regulation being challenged ‘is a comprehensive, broadly based regulatory scheme that

burdens and benefits all citizens relatively equally.” *Id.* citing *Cummins v. Robinson Twp.*, 283 Mich App 677 (2009). In the *Chelsea* case, the MDEQ imposed a temporary moratorium on the issuance of water and sewer permits because of health and safety concerns arising from the capacity of the waste water treatment plant during wet periods. As a result, the city was temporarily precluded from issuing permits for the Plaintiff’s development. With regard to its takings and due process claims, the Court held that the Plaintiff failed to establish that the MDEQ moratorium singled out Plaintiff. All developers in the area connecting to the city of Chelsea water facilities were subject to the same moratorium.

In this matter, the Township decided to consolidate the Oak Pointe WWTP with the Genoa-Oceola WWTP and convert the Oak Pointe Plant to a pumping station. This consolidation/conversion was done to eliminate sodium discharge into the ground water (i.e., to improve the health, safety and welfare of the community). The Township’s actions do not single out a single property owner to bear the burden of the public good, but instead, several properties that were designated on the Future Land Use Map as small lot single family residential will instead be designated as LDR (low density residential – 1 acre minimum) to accomplish this goal.

II. The Economic Impact on the Properties.

The second element of the *Penn Central* inquiry concerns the economic impact of the regulation on the claimant. The focus for purposes of this factor is on whether a plaintiff’s property has diminished in value as a result of the regulation, recognizing that the takings remedy is limited to “extreme circumstances.” *United States v. Riverside Bayview Homes*, 474 U.S. 121 (1985); *Tahoe-Sierra PRs Council, Inc v. Tahoe Reg’l Planning Agency*, 535 U.S. 302 (2002).

Amending the Master Plan and the Future Land Use Map as proposed results in no impact on the properties presently zoned LDR or SR. That is because under the present conditions both of these zoning districts require one acre minimum per dwelling unit.¹ Therefore, the proposed amendment to the Master Plan and the Future Land Use Map to Low Density Residential (1 unit per acre) results in no change in minimum required lot sizes per dwelling unit for LDR and SR zoned properties.

With regard to the Chestnut Development parcels, in 2012 Mr. Steven Gronow approached the Township seeking a special land use permit to mine sand from Chestnut Development’s 72 acre parcel. Mr. Gronow’s Land Use Application was denied and he filed suit against the Township. The Livingston County Circuit Court found among other things that since final PUD approval was not obtained within two years and pursuant to Section 10.04.02 of the Township’s Zoning Ordinance, the zoning of Mr. Gronow’s property reverted back to Agricultural (AG) which was the zoning classification of the property before the MUPUD zoning was approved. The Michigan Court of Appeals affirmed the trial court’s conclusion that the zoning of the property

¹ The SR zoning district does allow one dwelling unit per ½ acre where public sanitary sewer service is available, however, public sanitary sewer service is not available in the subject area.

reverted back to AG. Since AG zoning requires a minimum of 10 acres per dwelling, amending the Master Plan and the Future Land Use Map to include the Chestnut Development parcels to Low Density Residential (1 unit per acre) arguably results in an economic benefit to the property owner.

With regard to Lucy, LLC's parcels and David Paskorella's parcel the legal principal of *stare decisis* applies. *Stare decisis* is the doctrine of precedent. Courts cite to *stare decisis* when an issue has been previously brought to the court and a ruling already issued. Generally, courts will adhere to the previous ruling. Applying the Court of Appeals ruling in the *Chestnut Development* case to these properties tells us that the zoning classification of these properties is (or should be) AG since a final PUD Plan was not approved within the two (2) year period as required by Section 10.02.04 of the Township's Zoning Ordinance. A change in the Master Plan and the Future Zoning Map will conform these properties to the rulings of the Livingston County Circuit Court and the Michigan Court of Appeals.

Another important fact with regard to the Lucy, LLC parcels and the David Paskorella parcel is that Section 2 of Article 10 of the Township Zoning Ordinance lists qualifying conditions for property to be developed as a PUD. Section 10.02.01 requires that the property be under single ownership² and Section 10.02.05 requires that the site be served by public sewer and public water, except that the Township may approve a PUD that is not served by public sewer and public water provided that all lots shall be a minimum of 1 acre in size. Accordingly, David Paskorell's parcel does not qualify for PUD zoning and the Lucy, LLC parcels under the PUD zoning, would require minimum lot sizes of 1 acre which is exactly what is being proposed as an amendment to the Master Plan and the Future Land Use Map.

III. The extent by which the regulation has interfered with distinct investment-backed expectations.

The third element of the *Penn Central* test focuses on the landowners' reasonable investment backed expectations. In determining this factor, the Michigan Court of Appeals inquires: what use could the landowner reasonably expect to make of the land under the regulations in effect at the time of purchase? *K & K Constr., Inc. v. Department of Env't'l Quality*, 267 Mich App 523 (2005).

Property owners in the subject area who purchased their property during the time that the Master Plan and the Future Land Use map designated these properties as Small Lots Single Family Residential (2-3 units per acre) could argue that that they relied on this designation in purchasing their property. However, no court in Michigan has held that a township (or other municipality) may not amend their Master Plan and Future Land Use Map to provide for less dense zoning in a particular area. The plaintiffs in *Kernen v. City of Walled Lake*, 2003 Mich. App. Lexis 427 (2003) attempted to make this argument when they sued the city after the city rezoned plaintiffs' property from R-

² Under Section 10.02.03, the minimum acreage requirement is 20 acres except that the minimum may be reduced to 5 acres for sites served by both public water and public sewer.

1A (single family residential) to C-1 (neighborhood commercial) rather than to C-2 (general commercial) as requested by plaintiffs. The court found plaintiffs' position unavailing and affirmed the trial court's granting of summary disposition. In fact, Section 45 of the Michigan Planning Enabling Act provides that a master plan may be amended and the Planning Commission is required to review the master plan every 5 years.

Additionally, as pointed out above, the only properties affected by the proposed change, taking into account the current zoning of the properties, is the Chestnut Development, property the Lucy, LLC property and possibly David Paskorella's property. However, following the Court of Appeals decision, those properties are or should be currently zoned AG. This fact, plus all of the facts stated above would have revealed to these property owners that at best, these properties are currently subject to 1 unit per acre zoning if they had done their due diligence. Each of these property owners also knew, or should have known through due diligence, that (1) the property that each of them purchased was part of the Preserve of Genoa PUD,(2) that final PUD approval was never obtained, (3) a final PUD agreement was never executed, and (4) there was no guarantee that Genoa Township would extend water and sewer to these properties

Recommendation.

Based on the above, my recommendation is for the Planning Commission to recommend amending the Master Plan and the Future Land Use Map for the subject area to a zoning classification that the Planning Commission finds is appropriate for the subject area.

As always, I am happy to address any questions of the Planning Commission members.

Sincerely,

Frank J. Mancuso, Jr.

From: [David Campbell](#)
To: [Kelly VanMarter](#)
Cc: borden@lsiplanning.com; duffy@lsiplanning.com; [Kim Scherschligt](#); [Denise Lutz](#); [Nancy Blair](#); [James Wickman](#)
Subject: Master Plan amendment comments from Hartland Township
Date: Tuesday, October 27, 2015 9:09:26 AM
Attachments: [image001.png](#)
[image002.png](#)

Ms. VanMarter,

The Hartland Township Planning Department has received Douglas Brown's letter of September 23 (delivered October 19) regarding the proposed amendments to Genoa Township's Master Plan.

Thank you for the opportunity to comment on the proposed updates to the Future Land Use Map and Growth Boundary Map. As a community that just recently adopted updates to our own Future Land Use Map and Future Land Use Plan, it is interesting to see how our peer communities are going through the process. We in Hartland are also very familiar with the correlation between our land use planning and our long range infrastructure planning, and the potential consequences for when the demands of new land uses exceed that infrastructure's capacity.

Obviously the changes being proposed are a fair distance from Hartland Township, so we would expect the future impact of those changes to be minimal for our community. This is especially so for a Future Land Use Map update that actually reduces planned density. As such, Hartland Township has no objection to the proposed change.

Thank you again for the opportunity to provide our advisory comments.



David R. Campbell, AICP
Planning Director

2655 Clark Road | Hartland, MI 48353

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www.hartlandtp.com

[Facebook](#) | [Twitter](#) | [YouTube](#)





Livingston County Department of Planning

MEMORANDUM

TO: Brighton City Council
Dana Foster, City of Brighton Manager
City of Brighton Planning Commission
Kelly Van Marter, AICP, Genoa Charter Township
Assistant Township Manager/Community Development
Director

FROM: Robert Stanford, Principal Planner

DATE: October 21, 2015

SUBJECT: Livingston County Planning Staff Review –
Genoa Township Draft Master Plan Amendment

Kathleen J. Kline-Hudson
AICP, PEM
Director

Robert A. Stanford
AICP, PEM
Principal Planner

Scott Barb
PEM
Principal Planner

The Genoa Charter Township Planning Commission proposes amendments to the 2013 Genoa Charter Township Master Plan. The proposed changes relate to ***Genoa Township Master Plan Map 7: Future Land Use*** and ***Genoa Township Master Plan Map 8: Growth Boundary***.

The proposed amendments are prompted by the Township Engineer's findings that the Oak Pointe Municipal Water and Sanitary Sewer system is nearing capacity. In order to limit future impacts on this system, the Township proposes an amendment to ***Map 7*** and ***Map 8*** for the subject area. No corresponding township master plan text must be amended as part of this draft proposal.

The Livingston County Department of Planning was requested by the City of Brighton to provide a review on the proposed Master Plan amendments as part of the on-going planning services agreement. This review was conducted in accordance with Section 41 of the Michigan Planning Enabling Act (*Public Act 33 of 2008, as amended, MCL 125.3801-3885*).

Following is a summary of the proposed updates. See attached maps for further reference (area of concern is shown in red highlight text on maps)

Map 7: Future Land Use

The location of the Oak Pointe area proposed for amendment is: south of Brighton Road, north of Cunningham Lake Road and on both the west and east sides of Chilson Road. This area is currently designated as Small Lot Single Family Residential (2 to 3 units per acre) and it is proposed that the area be changed to a designation of Low Density Residential (1 acre per unit) to minimize the density of any future residential development in this area. Future development of this area is plausible because most of this area is currently undeveloped.

Department Information

Administration Building
304 E. Grand River Avenue
Suite 206
Howell, MI 48843-2323

●
(517) 546-7555
Fax (517) 552-2347

●
Web Site
co.livingston.mi.us



Map 8: Growth Boundary

The Oak Pointe area has been changed from a Primary Growth Area to a Secondary Growth Area. These areas are defined in the master plan as follows:

Primary growth areas are currently served or available to be served by public sewer and water. These areas include single family and multiple family residential at higher densities with public water and sewer, commercial centers, industrial parks and mixed-use centers.

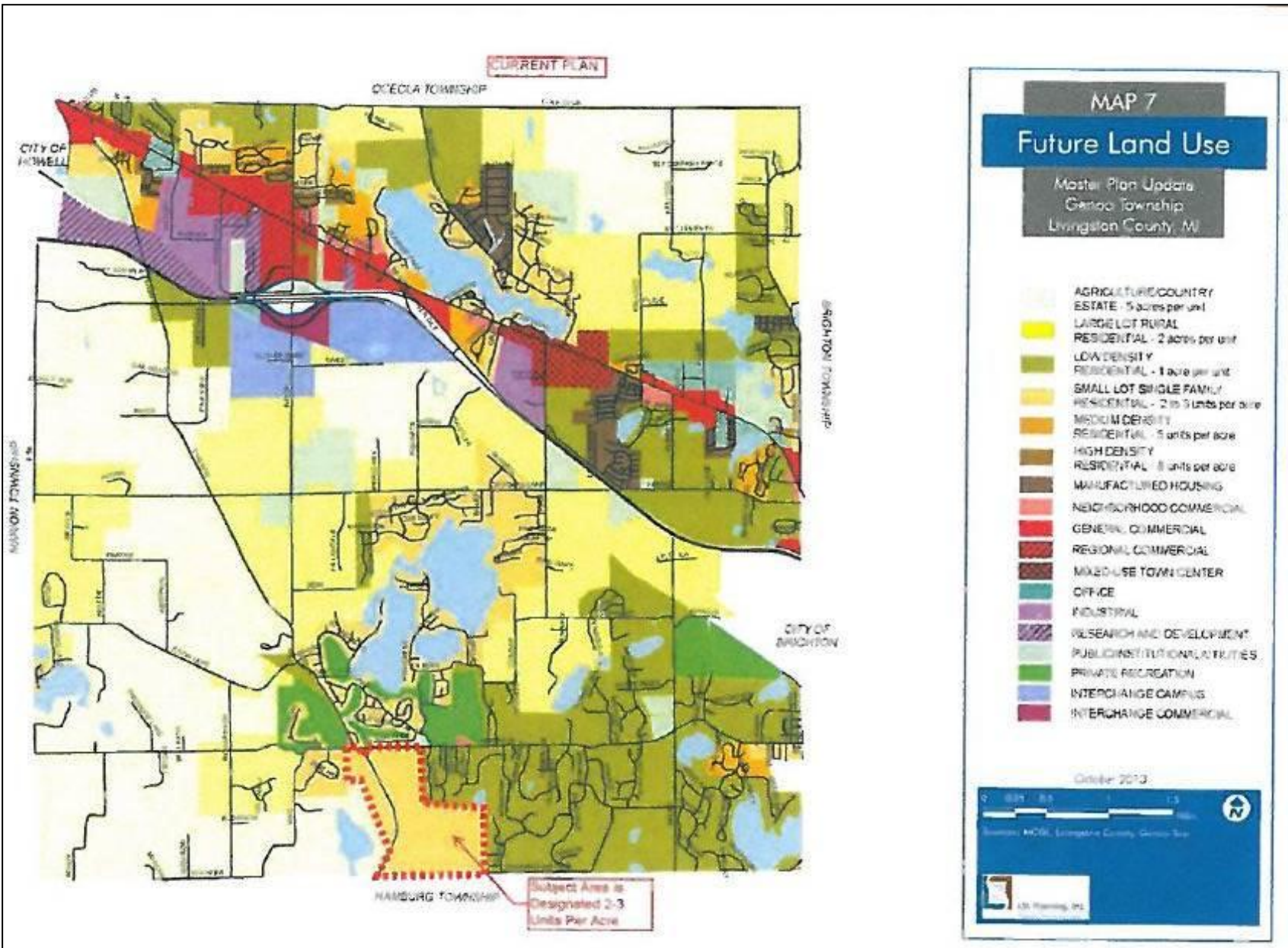
Secondary growth areas do not have sewer and water, but due to their proximity to the cities of Brighton or Howell, are appropriate for infill with low density residential. Typical lot sizes will be around one acre or clustered developments at an overall density of two acres per dwelling.

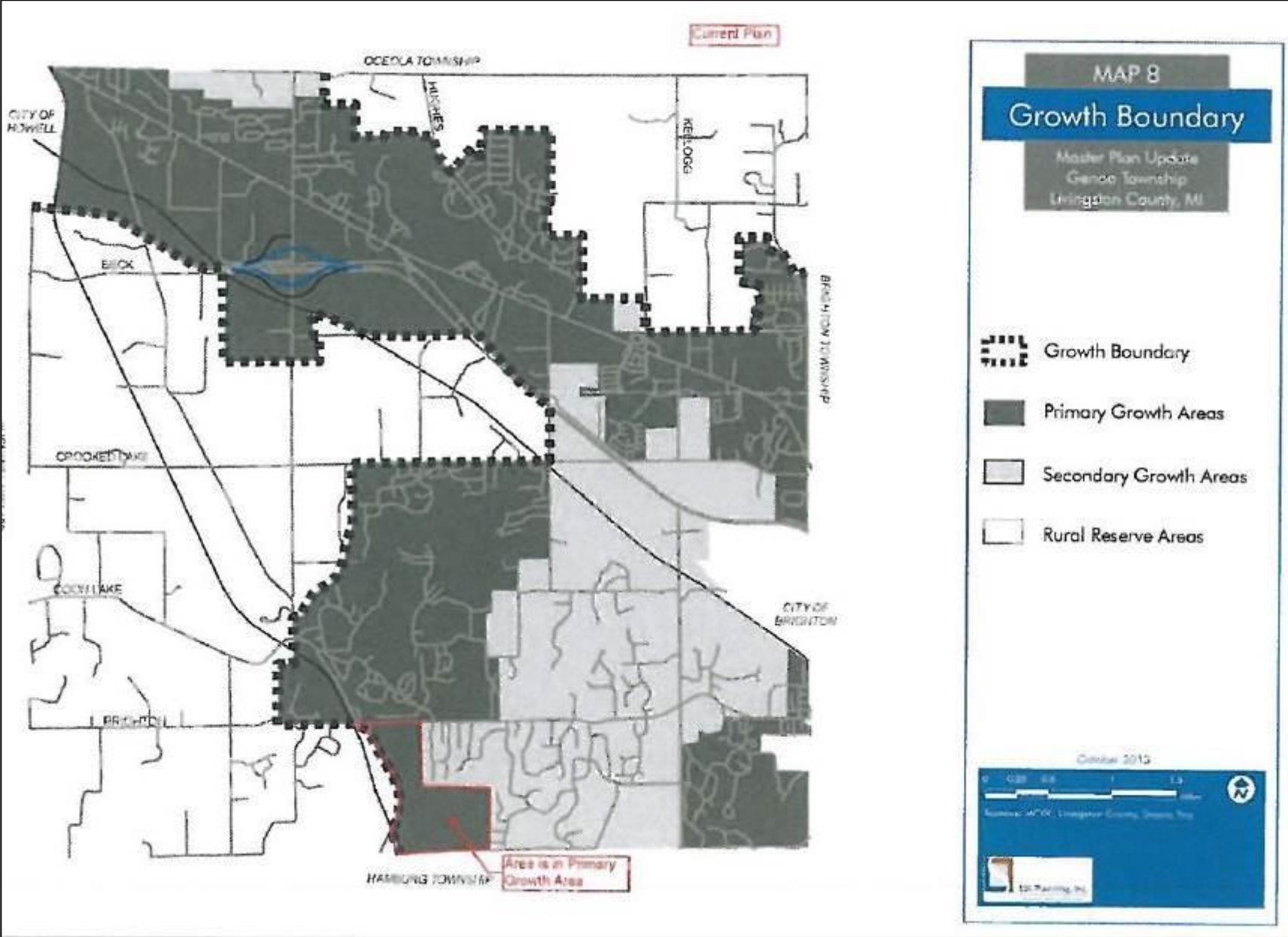
Compatibility with the City of Brighton Master Plan:

Staff finds the proposed Genoa Township Master Plan minor text amendment compatible with the City of Brighton Master Plan. The proposed amendments are clearly defined and identified and pose no undue hardship on the public of the City of Brighton. They appear to be reasonable and appropriate.

PROCEDURAL NOTE:

Following the 42-day review period at their November 9, 2015 meeting, the Genoa Charter Township Planning Commission will conduct a public hearing, review any comments received, and make a recommendation on these proposed master plan amendments and then forward their recommendation to the Township Board for adoption.





From: [Timothy Schmitt](#)
To: [Kelly VanMarter](#)
Subject: Master Plan amendment
Date: Friday, October 23, 2015 10:07:07 AM

Kelly,

Hope all is well on this chilly Friday! Wanted to let you know that the Howell Planning Commission reviewed the proposed Genoa Township Master Plan amendment at their meeting on Wednesday and they had no comments. We appreciate the opportunity to review the matter. Please let me know if there is anything you need in the future!

Sincerely,

Timothy R. Schmitt, *AICP*
Community Development Director
City of Howell
(517) 546-3861



Livingston County Department of Planning

October 22, 2015

Kathleen J. Kline-Hudson
AICP, PEM
Director

Robert A. Stanford
AICP, PEM
Principal Planner

Scott Barb
PEM
Principal Planner

Genoa Charter Township Board of Trustees
c/o Polly Skolarus, Township Clerk
Genoa Charter Township Hall
2911 Door Road
Brighton, MI 48116

Re: Planning Commission Review of Genoa Charter Township Master Plan Update MP-04-15

Dear Genoa Charter Township Trustees:

The Livingston County Planning Commission met on Wednesday, October 21, 2015 and reviewed the proposed Master Plan update referenced above. The County Planning Commissioners made the following recommendation:

Approval. The proposed map amendments to the 2013 Genoa Charter Township Master Plan are reasonable and appropriate, given the changing utility service capabilities of this area of Genoa Township.

Copies of the staff review and Livingston County Planning Commission meeting minutes are enclosed. Please do not hesitate to contact our office should you have any questions regarding county actions.

Sincerely,

Kathleen J. Kline-Hudson, Director

Department Information

Administration Building
304 E. Grand River Avenue
Suite 206
Howell, MI 48843-2323

•
(517) 546-7555
Fax (517) 552-2347

•
Web Site
co.livingston.mi.us

Enclosures

c: Doug Brown, Chair Genoa Charter Township Planning Commission
Kelly VanMarter, Assistant Township Manager/Community Development Director, Genoa Charter Township

Meeting minutes and agendas are available at:
<http://www.livgov.com/plan/Pages/agendas.aspx>

N. MP-04-15 GENOA CHARTER TOWNSHIP MASTER PLAN AMENDMENT

The Genoa Charter Township Planning Commission proposes amendments to the 2013 Genoa Charter Township Master Plan. The proposed changes relate to Map 7: Future Land Use and Map 8: Growth Boundary.

The proposed amendments are prompted by the Township Engineer's findings that the Oak Pointe Municipal Water and Sanitary Sewer system is nearing capacity. In order to limit future impacts on this system, the Township proposes an amendment to Map 7 and Map 8 for the subject area. There is not any corresponding master plan text that must be amended.

City of Howell Planning Commission Recommendation: Following the 42-day review period at their November 9, 2015 meeting, the Genoa Charter Township Planning Commission will conduct a public hearing, review any comments received, and make a recommendation on these proposed master plan amendments and then forward their recommendation to the Township Board for adoption.

Staff Recommendation: Approval. The proposed map amendments to the 2013 Genoa Charter Township Master Plan are reasonable and appropriate, given the changing utility service capabilities of this area of Genoa Township.

Commission Discussion: Commissioner Prokuda asked why the capacity of the system was not improved. Director Kline-Hudson said that it appeared to not be an option for some reason. Commissioner Clum asked for clarification of the term 'infill'.

Public Comment: None.

Commissioner Action:

**Commissioner Action: IT WAS MOVED BY COMMISSIONER ANDERSON TO RECOMMEND APPROVAL, SECONDED BY COMMISSIONER PROKUDA.
All in favor, motion passed. 5-0**

O. PA-04-15 CONWAY TOWNSHIP PA116 FARMLAND AGREEMENT: MARSTON FARMS, LLC.

Commission Discussion: None

Commission Comment: None

Public Comment: No public comment

**Commissioner Action: IT WAS MOVED BY COMMISSIONER PROKUDA TO RECOMMEND APPROVAL, SECONDED BY COMMISSIONER SPARKS.
All in favor, motion passed. 5-0**

P. PA-05-15 CONWAY TOWNSHIP PA116 FARMLAND AGREEMENT: MARSTON FARMS, LLC.

Commission Discussion: None

Commission Comment: None

Public Comment: No public comment



Livingston County Department of Planning

MEMORANDUM

Kathleen J. Kline-Hudson
AICP, PEM
Director

TO: Livingston County Planning Commissioners and the
Genoa Charter Township Board of Trustees

Robert A. Stanford
AICP, PEM
Principal Planner

FROM: Kathleen Kline-Hudson, Director

DATE: October 15, 2015

Scott Barb
AICP, PEM
Principal Planner

SUBJECT: MP-04-15 Amendment to Genoa Charter Township Master Plan

The Genoa Charter Township Planning Commission proposes amendments to the 2013 Genoa Charter Township Master Plan. The proposed changes relate to Map 7: Future Land Use and Map 8: Growth Boundary.

The proposed amendments are prompted by the Township Engineer's findings that the Oak Pointe Municipal Water and Sanitary Sewer system is nearing capacity. In order to limit future impacts on this system, the Township proposes an amendment to Map 7 and Map 8 for the subject area. There is not any corresponding master plan text that must be amended.

Following is a summary of the proposed updates. Staff comments are noted in ***bold, italic underline***.

Map 7: Future Land Use

The location of the Oak Pointe area proposed for amendment is: south of Brighton Road, north of Cunningham Lake Road and on both the west and east sides of Chilson Road. This area is currently designated as Small Lot Single Family Residential (2 to 3 units per acre) and it is proposed that the area be changed to a designation of Low Density Residential (1 acre per unit) to minimize the density of any future residential development in this area. Future development of this area is plausible because most of this area is currently undeveloped.

See attached map for reference

Map 8: Growth Boundary

The Oak Pointe area has been changed from a Primary Growth Area to a Secondary Growth Area. These areas are defined in the master plan as follows:

Primary growth areas are currently served or available to be served by public sewer and water. These areas include single family and multiple family residential at higher densities with public water and sewer, commercial centers, industrial parks and mixed-use centers.

Department Information

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October 15, 2015
Page 2

Secondary growth areas do not have sewer and water, but due to their proximity to the cities of Brighton or Howell, are appropriate for infill with low density residential. Typical lot sizes will be around one acre or clustered developments at an overall density of two acres per dwelling.

See attached map for reference

Following the 42-day review period at their November 9, 2015 meeting, the Genoa Charter Township Planning Commission will conduct a public hearing, review any comments received, and make a recommendation on these proposed master plan amendments and then forward their recommendation to the Township Board for adoption.

Staff Recommendation: Approval. The proposed map amendments to the 2013 Genoa Charter Township Master Plan are reasonable and appropriate, given the changing utility service capabilities of this area of Genoa Township.

D. Disposition of Conceptual PUD Plan dated July 22, 2015.

Moved by Ledford, supported by Smith approve the Conceptual PUD Plan dated July 22, 2015. Motion carried unanimously.

9. Review of a special use, environmental impact assessment, and sketch plan application for a proposed market and storage facility with outdoor sales and display for a property located at 7300 Grand River Ave., Brighton, Michigan 48114, parcel # 4711-13-300-021. The request is petitioned by Simply Rock Properties, LLC.

A. Disposition of Special Land Use Permit.

Moved by Ledford supported by Rowell to approve special use application for a proposed market and storage facility with outdoor sales and display for a property located at 7300 Grand River Ave., Brighton, Michigan 48114, parcel # 4711-13-300-021. The request is petitioned by Simply Rock Properties, LLC. Motion carried unanimously.

B. Disposition of Environmental Impact Assessment dated August 26, 2015.

Moved by Hunt, supported by Ledford to approve the Environmental Impact Assessment dated August 26, 2015. Motion carried unanimously.

C. Disposition of Sketch Plan dated September 15, 2015.

Moved by Hunt supported by Ledford approve the Sketch Plan dated September 15, 2015, with the following provisions:

1. A land use permit for tenant build-out must be acquired prior to occupancy.
2. The petitioner shall provide a performance guarantee for the 5' sidewalk along Grand River in compliance with Section 21.03 of the Township Ordinance which is to be approved by the Township Attorney. The performance guarantee shall be provided prior to issuance of a land use permit.

Motion carried unanimously.

10. Review of the draft Master Plan and request for approval to distribute the draft plan pursuant to the Michigan Planning Enabling Act (MCL 125.3481).

Moved by Hunt, supported by Smith to approve the request to distribute the draft plan pursuant to the Michigan Planning Enabling Act (MCL 125.3481). Motion carried unanimously.

11. Request to approve the bid from Highway Construction for the Township Hall Parking Lot in an amount not to exceed \$107,125.00.

Moved by Mortensen, supported by Hunt to approve the bid from Highway Construction for the Township Hall Parking Lot in an amount not to exceed \$107,125.00. Motion carried unanimously.

12. Request for clarification of changes to the refuse collection fee for 2016.

Ms. Hunt indicated that a discussion was last held on March 3, 2014 which clarified a previous motion and it is not clear. Is it reviewed on an annual basis or is an annual fee structure set? Duncan's contract expires in 2016.

Sam Herfy addressed the Planning Commission on behalf of the petitioner.

Brian Borden addressed the setbacks from the road and the water line. They are met.

The plans were submitted over aerial photos. The accuracy is not guaranteed. A more accurate plan should be used for the issuance of a permit. For instance, an engineer could draw on the site plan, to scale, the location of the proposed buildings.

Planning Commission disposition of petition

A. Disposition of Sketch Plan (08-25-15)

Motion by Barbara Figurski to table this item for the petitioner to obtain more accurate measurements of the locations of the buildings. Support by Chris Grajek. **Motion carried unanimously.**

OPEN PUBLIC HEARING #3... Review of the draft Master Plan amendment affecting future land use and growth boundaries in sections 33 and 34 along Chilson Road south of Brighton Road for submittal to the Township Board for distribution and public review pursuant to the Michigan Planning Enabling Act.

Kelly VanMarter gave a history of this item. She will seek the attorney's opinion while in the 42-day review period.

Planning Commission disposition of petition

A. Authorize submittal of the draft master plan amendment to the Township Board.

Motion by John McManus to authorize submittal of the draft master plan amendment to the Township Board and that the same be submitted for a legal opinion.

Administrative Business:

- Staff report
- Approval of August 10, 2015 Planning Commission meeting minutes. **Motion** by Barbara Figurski to approve the minutes of the August 10, 2015 meeting as amended. Support by James Mortensen. **Motion carried unanimously.**
- Member discussion
- Adjournment. **Motion** by John McManus to adjourn the meeting at 8:27 a.m. Support by James Mortensen. **Motion carried unanimously.**

Respectfully submitted,

Kristi Cox
Recording Secretary



MEMO

TO: Kelly VanMarter, Assistant Township Manager
FROM: Greg Tatara, Utility Director
DATE: August 27, 2015
RE: Extension of the Oak Pointe Municipal Water and Sanitary Sewer Boundaries

.....

Per your request, I have prepared this Memo outlining the available capacity with the existing Oak Pointe municipal water and sanitary sewer systems.

Oak Pointe Municipal Water System

The current maximum day demand in the Oak Pointe municipal water system is near the capacity of our wells and exceeds the treatment capacity of the plant. In fact, during periods of high irrigation and demand, we have had to implement water use restrictions to assure that enough water would be available for fire and public safety measures. Current customers also experience diurnal low pressure periods due to high peak demand and the inability of the distribution and production systems to meet these demands.



Currently, the water system has a maximum daily production capability of 1,100 gallons per minute. This equates, when backwash and service water is taken into account, to a maximum daily production amount of 1.45 million gallons per day (MGD). The production capability of Oak Pointe Water System compared to actual demand data from the past several years is at 90%. The Michigan Department of Environmental Quality (MDEQ) recommends that this amount be near 75%, which means that the Oak Pointe Water System is at production capacity and cannot serve additional developments.

In addition, the water treatment process is over capacity. The existing iron removal filters operate at a flow rate of 8 gpm/sft during peak flow, which is significantly over what the recommend 10 State Standards of 3 gpm/sft. Since the facility only removes iron and manganese, there is not as strong regulatory guidelines for iron removal equipment due to the fact that public health is not in danger if the treatment process doesn't function appropriately. However, the existing customers of Oak Pointe expect high

quality water to be supplied at all times. As a result of this over capacity issue, numerous operational measures are taken to ensure we can reliability remove iron during peak summer demand with our current customers, and any expansion of the system will only exacerbate this issue.

Oak Pointe Municipal Wastewater System

The Oak Pointe Wastewater Plant was converted to a pump station and was taken off line in January of 2015, with the wastewater being pumped approximately 5 miles away to the Genoa-Oceola WWTP for treatment. The Sewage Treatment Agreement between Genoa Township and the Genoa Oceola Sewer and Water Authority includes a figure showing the existing Oak Pointe Sanitary Sewer Service Area (Exhibit 1 of the Agreement) and states the following in regards to the future expansion of the district within Genoa Township:

“The line constructed to connect Oak Pointe to the GO WWTP shall be dedicated for the sole purpose of transporting Oak Pointe Flows to the GO Plant and shall not be utilized to transport other flows originated in Genoa Township to the GO WWTP without amendment of this agreement by both Governing Boards.”

In addition to modifications to the existing Sewer Treatment Agreement, if the Township wishes to expand the Oak Pointe sanitary sewer district modifications will be necessary to the Oak Pointe pump station, including, but not limited to modification of the pump flow rates and additional covered equalization and odor control measures at the Oak Pointe pump station.



As outlined above, expanding the existing Oak Pointe municipal water and sanitary sewer presents numerous challenges. Please let me know if you need any further information or have any questions on the above information

**NOTICE OF PUBLIC HEARING
ON PROPOSED MASTER PLAN
AMENDMENT
NOVEMBER 9, 2015
AT 6:30 p.m.
GENOA CHARTER TOWNSHIP,
LIVINGSTON COUNTY,
MICHIGAN**

PLEASE TAKE NOTICE that the Genoa Charter Township Planning Commission will conduct a public hearing to consider a recommendation of a Master Plan amendment as required under the provisions of the Michigan Planning Enabling Act. The proposed Master Plan amendment is in response to utility limitations which affect future land use and growth boundaries in sections 33 and 34 along Chilson Road south of Brighton Road. The hearing will be held on Monday, November 9, 2015 at 6:30 p.m. at the Genoa Charter Township Hall, 2911 Dorr Road, Brighton, Michigan 48116.

PLEASE TAKE FURTHER NOTICE that the Master Plan amendment has been submitted for public comment to the interested entities as required under Section 41 of the Michigan Planning Enabling Act. The Planning Commission hereby welcomes public comment on the amendment. A copy of the draft Master Plan amendment is available at the Township Hall during normal business hours or is available on the Township's website at www.genoa.org.

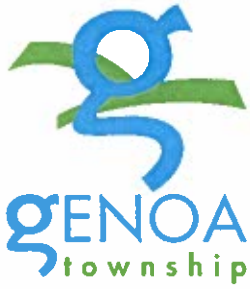
PLEASE TAKE FURTHER NOTICE that such other and further matters as may properly come before the Planning Commission may be considered at the public hearing. You are invited to attend this hearing. If you are unable to attend, please call or submit written comments in lieu of a personal appearance to:

GENOA CHARTER TOWNSHIP
ATTN: KELLY VANMARTER, ASSISTANT TOWNSHIP
MANAGER
2911 DORR ROAD
BRIGHTON, MI 48116
810-227-5225
kelly@genoa.org

Genoa Charter Township will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon seven (7) days' notice to Genoa Charter Township. Individuals with disabilities requiring auxiliary aids or services should contact the Township by writing or calling the Township.

GENOA CHARTER TOWNSHIP PLANNING COMMISSION
By: Douglas Brown, Chairman

(10-23-2015 DAILY 261287)



This is a copy of the letter that was mailed to local and regional municipalities and agencies as required by law. The following page shows the mailing list.

September 23, 2015

2911 Dorr Road
Brighton, MI 48116
810.227.5225
810.227.3420 fax
genoa.org

Livingston County
Planning Commission
304 E. Grand River
Howell, MI 48843

Re: Draft Master Plan amendment for Your Review

To Whom It May Concern:

Genoa Charter Township is providing its draft Master Plan amendment for your review. It is anticipated that, if adopted, this Plan will be incorporated into the Master Plan for Genoa Charter Township as a Master Plan amendment. The only changes proposed to the adopted 2013 Master Plan are Map 7: Future Land Use and Map 8: Growth Boundary related to utility limitations.

The draft is being distributed to surrounding municipalities in accordance with Section 41 of the Michigan Planning Enabling Act (Public Act 33 of 2008). According to the Act, before a municipality adopts a new Master Plan or updates thereto, it must first send a draft copy of the Master Plan to all contiguous local governments, as well as the County for their review and comment.

According to the Act, the various municipalities and agencies have 42 days to review and submit comments on this Master Plan amendment to Genoa Township and the County (if they choose to do so). Any comments should be submitted in writing to:

Kelly VanMarter, AICP – Asst. Township Manager/ Community Development Director
Genoa Charter Township
2911 Dorr Road
Brighton, MI 48116

SUPERVISOR

Gary T. McCririe

CLERK

Paulette A. Skolarus

TREASURER

Robin L. Hunt

TRUSTEES

H. James Mortensen

Jean W. Ledford

Todd W. Smith

Linda Rowell

MANAGER

Michael C. Archinal

Thank you for your participation in this matter.

Regards,

Douglas Brown, Chairman
Genoa Township Planning Commission

Green Oak Charter Township
Planning Commission
10001 Silver Lake Road
Brighton, MI 48116

Howell Township
Planning Commission
3525 Byron Road
Howell, MI 48843

SEMCOG
1001 Woodward Ave, Ste 1400
Detroit, MI 48226

Livingston County
Planning Commission
304 E. Grand River
Howell, MI 48843

Hartland Township
Planning Commission
2655 Clark Road
Hartland, MI 48353

Oceola Township
Planning Commission
1577 W. Latson Road
Howell, MI 48843

City of Brighton
Planning Commission
200 N. First Street
Brighton, MI 48116

Hamburg Township
Planning Commission
10405 Merrill Road
Hamburg, MI 48139

Putnam Township
Planning Commission
131 S. Howell
Pinckney, MI 48169

City of Howell
Planning Commission
611 E. Grand River
Howell, MI 48843

Brighton Township
Planning Commission
4363 Buno Road
Brighton, MI 48116

Marion Township
Planning Commission
2877 W. Coon Lake Road
Howell, MI 48843

**GENOA CHARTER TOWNSHIP
PLANNING COMMISSION
PUBLIC HEARING
OCTOBER 26, 2015
6:30 P.M.
MINUTES**

CALL TO ORDER: The meeting of the Genoa Charter Township Planning Commission was called to order at 6:30 p.m. Present were Chairman Doug Brown, Diana Lowe, James Mortensen, John McManus, Chris Grajek, and Eric Rauch. Also present was Kelly VanMarter, Community Development Director/Assistant Township Manager.

PLEDGE OF ALLEGIANCE: The pledge of allegiance was recited.

APPROVAL OF AGENDA: **Motion** by Diana Lowe with support by John McManus to approve the agenda as submitted. **Motion passed unanimously.**

CALL TO THE PUBLIC: A call to the public was made with no response.

OPEN PUBLIC HEARING #1... Review of a sketch plan application to construct four outside pavilions, located at 7000 McClements, Brighton, Michigan, 48114, parcel # 4711-12-100-002. The request is petitioned by St. Thomas Chaldean Catholic Diocese USA.

Sami Herfy appeared on behalf of the petitioner. Eric Rauch spoke to the letter by Brian Borden of LSL. He believes Mr. Borden is mistaken in his statement that pavilions 1, 2, and 3 do not comply. He believes that they do. Kelly VanMarter explained the wetland setbacks on the map. She agrees that Mr. Borden is mistaken.

The bio swail currently exists.

A call to the public was made with no response.

Planning Commission disposition of petition

A. Disposition of Sketch Plan (09-18-15)

Motion by James Mortensen to approve the sketch plan, subject to:

1. If dredging is required in the area of pavilion number four, which must be renumbered on the second page of the plan, this approval will be subject to further approval by the Drain Commission;
2. The petitioner will be required to assure the four pavilions are placed as shown on the site plan so they do not violate the Township ordinance with respect to distance from wetlands and lakeshore property;
3. This approval is for the sketch plan dated 9/18/15.

Support by John McManus. **Motion carried unanimously.**

Administrative Business:

- *Staff report. Kelly VanMarter gave a staff report.*
- *Approval of September 14, 2015 Planning Commission meeting minutes. **Motion** by Diana Lowe to approve the minutes from September 14, 2015. Support by Chris Grajek. **Motion carried unanimously.***
- *Member discussion*
- *Adjournment. **Motion** by Diana Lowe to adjourn. Support by Chris Grajek. **Motion carried unanimously.** Meeting adjourned at 6:49 p.m.*