

**GENOA CHARTER TOWNSHIP
PLANNING COMMISSION PUBLIC HEARING
MAY 13, 2019
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, Jeff Dhaenens, Jill Rickard, Marianne McCreary, Jim Mortensen and Eric Rauch. Absent was Chris Grajek. Also present was Kelly VanMarter, Community Development Director/Assistant Township Manager, Brian Borden of SafeBuilt Studio, and Gary Markstrom of Tetra Tech. There were eight audience members present.

PLEDGE OF ALLEGIANCE: The pledge of allegiance was recited.

APPROVAL OF AGENDA:

Moved by Commissioner McCreary, seconded by Commissioner Rickard, to approve the agenda as presented.

CALL TO THE PUBLIC: The call to the public was made at 6:32 pm with no response.

OPEN PUBLIC HEARING # 1... Review of an amendment to a previously approved site plan and environmental impact assessment for a proposed 15-unit, single family site condominium located north of Cunningham Lake Road and west of Sundance Trail, known as Mountain Top Estates. The request is petitioned by Mountain Top Estates, LLC.

Mr. Wayne Perry with Desine and Mr. Steve Davis owner of the property with AdvanceCraft were present. Mr. Perry stated that they are here to seek an amendment to the approved site plan. Mr. Davis purchased the property with the intent to implement the site plan as it existed. Mr. Perry indicated it was approved with 16 units however unit 15 was removed from the project. They attempted to update the site plan to implement the plan as approved and discovered that the removal of unit 15 impacted the storm drainage and the plan could no longer work as proposed. There were multiple other deficiencies with the prior approved site plan. They are now keeping the stormwater on site and have reconfigured the road to eliminate 10,000 yards of excavation. The retention basin in the northwest corner is being increased since the one that was approved didn't meet standards of the Drain Commissioner. They corrected items from the 2006 approval related to lighting, landscaping and grading. The retention basin in the northwest and the detention basin proposed near the entrance have been revised. The detention basin is now designed as a site amenity with appropriate side slopes, eliminated fence, and added landscaping. They have approvals from Health, Drain, and Road Commission and are now seeking Township approval.

In regard to the review letters, Mr. Perry addressed the tree removal issue. He presented the 2006 approved landscape plan and showed areas of trees that were to be saved and trees to be added. Many of the trees labeled to be saved when compared to the grading plan would not have been able to be saved. He shows the succession of the plans and indicates that many of the trees were proposed to be removed and many of those planned to be saved would not have been able to be saved. The plans that were approved by the Township in 2006 show trees preserved in areas where they were not capable of being saved. Mr. Perry now proposes to expand the clearing in some areas but also they are saving trees in additional areas. The primary difference is additional clearing on lots 7 and 8 for septic fields, the berm proposed along units 6 through 8 and the storm water conveyance along the rear of Unit 4 and 5.

Chairman Brown asked when Mr. Davis took control of this property and when were the trees removed. Mr. Davis responded that they acquired the property in November 2018 and the trees were removed in March 2019. Chairman Brown questioned why they didn't get approval before clearing the trees and requests a count of the total trees that were cut should be provided. He believes the trees should be replaced.

Mr. Davis responded that he went ahead with tree clearing because he thought he had approvals since the plans already went to the Planning Commission. They started clearing based on the original plan because he thought he had approval. Mr. Perry added that the problems arise from the change from 16 to 15 units. That change altered the ability to develop the site plan that was approved. Mr. Perry states that the original 2006 plan required tree removal, the Planning Commission approved that plan and this plan also requires tree removal but they are also planning to save many of the trees and it would be unfair to make them restore trees in the short term that would just be cut to facilitate the development as proposed.

Chairman Brown indicated that he believes that once the road and utilities are installed they should plant trees to replace those trees that would have been remaining but which were removed illegally. Mr. Perry questioned if the trees that had to be cut to build the project should be replaced?

Commissioner Mortensen stated that we are dealing with trees that were cut on an expired site plan. Mrs. VanMarter responded that the site plan was not yet expired. Mr. Mortensen asked how the trees proposed for removal on the current plan compare to the clearing of trees that were not foreseen to be removed on the original now deemed non-workable plan. In other words, how does the 2006 tree removal plan compare with what is being proposed. He is headed towards requiring an enhancement of the landscaping to make up for lost trees.

Commissioner Rickard stated that without a tree survey we can't know how much of the trees were removed.

Mr. Perry responded that the answer to that question is erroneous. The plan in 2006 represented areas of trees not individual trees. He can't count the trees that were removed because they have been removed. I can show you areas that are now proposed to be saved and then also areas that were not proposed to be removed. We are taking down more trees than we are

preserving but at the same time we are preserving as much as we can and only clearing those needed for roads, storm water, and some sanitary fields.

Chairman Brown asked if there was a calculation of the number of trees to be removed in the agreement with the tree removal company. Mr. Davis responded that the tree company was based on a per acre rate, not the number of trees.

Commissioner Rickard had some questions on the grading including if the original road was designed to standards at the time also that the grading on the lots looks like additional tree removal will be needed in order to construct homes. She also asked how the property boundaries have changed with the loss of the 16th unit. Mr. Davis responded that the seller of the property wanted to keep the large barn on what was lot 16 and still lives in the existing house on Cunningham Lake Road. The land that was proposed as lot 16 was simply combined with the home property. Mr. Perry stated that the approved plan from 2006 had 24' roads and 10% road grade. They wanted to build exactly what was approved so they have kept that grade and width.

Commissioner McCreary stated that it appears misleading since you aren't showing where the homes will go and the clearing necessary for each home site. Mr. Perry responded that he has been very careful to only indicate trees to be removed during development of the roads and infrastructure. There will be additional tree removal for home sites and septic fields. They have cleared and graded 7, 8 and 10 so as not to impact drainage and or disposal fields as required by the health department. All the other lots will need trees cleared to build homes, driveways, and disposal fields.

Commissioner Dhaenens requested an explanation of the depiction on page 89 of tonight's packet. Mr. Perry responded that the plan shows what has been cleared in blue. The gray area is the additional clearing that is needed to build the project. The 2006 plans required 9.5 acres of clearing for the roads and infrastructure, they are proposing 11.7 acre of clearing.

Commissioner Rauch asked if the trees removed over the course of the last 6 months were within the tree removal plan from 2006. Mr. Perry responded that no, they removed additional trees as shown in the darker tan on the PowerPoint. Mr. Davis stated that his company has been building in this area since 1971. The tree people asked him at the time about removing additional trees. He doesn't know the configuration of the homes and won't remove the trees on each lot until they select a home layout and remove the trees necessary to build the home. They try to maintain all the trees they can. He is not opposed to something in the approval that would require that he have to plant 5 more trees on any lot after the home is built. Mr. Davis then provided a hand out about his company.

Commissioner Rauch stated that the reality of this is that those trees are coming out for the home construction anyway. What is depicted on the drawings showing tree removal is not what will end up being. We are only talking about whether these trees are staying for a few months before someone builds their house and removes them.

Commission Mortensen indicates his concern is the effect of perimeter trees coming down and the impacts on the neighbors.

Mr. Brian Borden reviewed his letter dated May 8, 2019. His primary concern is that if trees have been removed that would have provided a buffer to the adjacent property owners those trees should be replaced. In addition, the changes to the condo docs would be nice to have in red line version so I know what has changed. Mr. Perry responded that he does not know what was in the original condo documents since they didn't start with them. It is a fallacy to start with a bad set of documents so they started clean and are working from there. Mr. Borden indicated the Township Attorney should review the condo docs and there should be an analysis to confirm that the standards of the private road maintenance agreement as required by ordinance are met.

Mr. Gary Markstrom reviewed his letter dated May 7, 2019. The current length of the road is 1400 feet which exceeds the 1000 feet requirement. This is only 15 lots and if the fire department finds it acceptable, we would support the 1400 feet length. Similarly the road right of way is proposed to be 50 feet wide which is less than the required 66 feet but the ordinance allows this deviation in situations like this. Lastly, the 10% grade on the road is steeper than the standard but this is a very hilly site and to get the desired 6% grade would take more trees removed. The 10% slope is not unsafe and we support it. All these are subject to fire department approval. They will need a construction plan review phase for the private road and a spot inspection process during construction. The areas on the 2006 plans would have drained onto the adjacent owners, they have fixed that to keep all the water on site but it will stop off site drainage from impacting the neighbors. The plans comply with drain commissioner standards.

Chairman Brown asked how many lots are impacted by the 10% slope. Mr. Perry responded that all the lots are impacted because that slope is near the entrance to the neighborhood.

Commissioner McCreary has concern with the hill and sliding into the detention basin or sliding through the stop sign. During icy road conditions the steep slope could be dangerous. She questioned if there was any protection to keep someone from driving into the pond if it's icy. Mr. Perry responded that he pond will be landscaped. Commission Rickard stated that the Homeowner's Association will be responsible for maintaining the road and keeping it safe for vehicles.

Chairman Brown reviewed the Fire Department letter dated May 7, 2019. The fire department is requesting a water supply source, 4" address numbers, 26' wide road width with no parking, and reduction in the 10% slope. Mr. Perry responded that the request for water supply, 4" numbers and the 26' roads were also requested in 2016 but the Planning Commission did not require it. Mrs. VanMarter reviewed the minutes from 2016 and indicated that only the water supply requirement was excluded from the approval.

Commissioner Dhaenens stated that knowing what he knows now, he would be uncomfortable not making this Development meet current standards. We recently had the Moretti project provide a water source.

Mrs. VanMarter stated that recently a policy was discussed with the Fire Department in response to the Moretti project that all future all residential developments over 10 lots would need to provide the required water supply from the Fire Code. Since this project was approved before this

standard was in place and since the applicant is only seeking an amendment to the approved plan, the Planning Commission could determine that this project does not qualify. Commissioner Rauch stated this he believes this requirement for fire flow is completely inappropriate. This development if approved will be similar to 98% of our community. We are not risking public health safety or welfare if we allowed this as proposed.

Commissioner Mortensen stated that Townships are beginning to require this but since this one is an amendment to a pre-existing approved plan he is inclined to allow it.

Mr. Perry indicated that they can address items 2-4 in the fire department letter which includes the 26' wide road provided the water supply issue is not required.

A call to the public was made at 7:53pm with the following response:

Mrs. Bonnie Spicher of 5606 Mountain Road lives behind unit 9. She watched the trees be removed in one day with 2 machines. She doesn't think that anyone in this county ever wants to see clear cutting. She has been here 40 years and has never seen anything like it. The developer should have to do something to undo what he did. To clear cut a whole lot was unnecessary. She walked out and asked them to stop. It looked like a war zone. Some of the trees they removed 18" in diameter.

Mr. Keith Spicher of 5606 Mountain Road suggests that the Commissioners drive through copperleaf to see the impact of the clear cut. If you drive along Eggert they clear cut a few lots and it is a night and day difference. He requested clarification on that what is the tree protection fence is shown on the plan. Mr. Perry responded that it is essentially orange snow fencing. Mr. Spicher states that the original plans indicated they would be 128 feet from my property line with the tree clearing. Now they are going to be 50 feet cleared. This is not the character in the neighborhood.

Mr. John Septer of 5700 Eggert Place is concerned with the pink stakes and flags on his property. There are pink flags everywhere. He wants to know what the flags and stakes on his property mean. Mr. Wayne Perry stated that the corner of his property is where the northwest retention basin is proposed. Mr. Septer is very concerned for the impact all the tree removal will have on his property. He was considering putting his addition on his home and now is unsure if he should proceed. Mr. Perry offered to meet with Mr. Septer on site and to show him what the lines and markers are. Mr. Perry gave Mr. Septer his business card.

Commissioner McCreary indicated that she understands the concerns regarding the complete change in the look since the surrounding area was developed so long ago the trees in the area have already been reestablished and had time to grow.

The call to the public was closed at 8:11pm.

Moved by Commissioner Mortensen to recommend approval of the environmental impact assessment dated 4-5-19 for an amendment to a previously approved site plan and environmental

impact assessment for a proposed 15-unit, single family site condominium located north of Cunningham Lake Road and west of Sundance Trail, known as Mountain Top Estates.
Supported by Commissioner Dhaenens

Motion carried unanimously.

Moved by Commissioner Mortensen to recommend approval of the final condominium site plan dated 4-5-19 for an amendment to a previously approved site plan and environmental impact assessment for a proposed 15-unit, single family site condominium located north of Cunningham Lake Road and west of Sundance Trail, known as Mountain Top Estates subject to:

- 1.) The Master Deed and Bylaws be revised to add a private road maintenance agreement if the present language is not consistent with Township Ordinance subject to review by staff.
- 2.) The requirements in the Township engineer letter of March (May) 7th, 2019 will be met and the Planning Commission supports the recommendations regarding the private road length, the easement width and the grading.
- 3.) The requirements of the Brighton Area Fire Department in their letter dated May 7, 2019 shall be met with the exception of the underground water storage. This requirement is recommended for waiver in view of the fact that this is an amendment and it was not a requirement in prior site plan approvals for this site.

The motion was supported for discussion by Commission Rauch. Commissioner Rauch would like to require a minimum tree requirement for each lot included in the motion. In addition, he requests additional plantings in that area in the northwest corner in response to the comments received from the adjacent property owner this evening.

Commissioner Mortensen then adds to the motion the following:

- 4.) Additional evergreen trees shall be added around the retention pond in the northwest of the site plan and this will be reviewed by Township Staff for approval.
- 5.) Each lot shall provide the required 2 street trees per the ordinance plus an additional 3 trees shall be provided elsewhere on the lot. These trees shall be shown on a landscape plan associated with each land use permit for new homes.

The revised motion was supported by Commissioner Rickard.

Motion carried unanimously

OPEN PUBLIC HEARING #2... Consideration of Zoning Ordinance Text amendments to Article 7 of the Zoning Ordinance, entitled “Commercial and Service Districts” and discussion of supporting amendments to Article 25.

Brian Borden presents the proposed amendments to Article 7. The changes involve both modifications to existing uses as well as new uses. The first changes are modifications to existing uses. The changes include: making child care centers a permitted use in RCD and to have the ordinance meet the state requirements for outdoor play area; making schools a special land use in the OSD district rather than a permitted use; vocational and technical training to be made a special land use in the OSD district; churches would be a permitted use in RCD since we allow other types of assembly uses in RCD; public and government buildings are added as permitted use in RCD and as a special land use in office. Auto service standards are updated to ensure

compliance with environmental standards in addition to the specific use conditions. New land uses added include brewpubs which would be allowed by right in GCD and RCD; microbrewery, small distillery and small winery would be special land uses in RCD and GCD; Climate controlled indoor commercial storage would be added as a Special Land Use in RCD and GCD with specific conditions; and upper floor dwelling units is also added as a special land use in OSD, NSD, and GCD all with specific conditions.

Article 25 amendments are also included as a supplement to the changes proposed in Article 7, but they were not published so they are not included in the action items for this evening. The changes to Article 25 will be on the next meeting's agenda.

Commissioner Rauch suggested that the 25% window and the door color requirement for the climate controlled indoor storage be given discretion by the Planning Commission and that should be written into the language. Mr. Borden stated that he would prefer for the discretion and ability to deviate being clear in the ordinance.

A call the public was made at 8:59pm with the following response:

Daniel Boorstein with SVI Properties, LLC addressed the Planning Commission. He suggests that the letter he wrote can be disregarded since he hadn't fully reviewed the proposed changes to the text. The difference in what he wants to propose as climate controlled indoor storage as compared to mini-storage is that there are not exterior access overhead doors. The Township's goal should be to limit the exterior overhead doors. You may also want to set back these buildings so they aren't right over Grand River Avenue. The only concern with windows in this building is to put them facing a major thoroughfare. Also, too many windows can impact the usability of the space if you require them on the rear exterior. You should consider balancing the use with distance off the road.

Ms. VanMarter added that the proposed definitions address the suggestion for limited outdoor access.

The call to public closed was at 9:12pm.

A. Recommendation of Amendments to Article 7.

Moved by Commissioner Mortensen to recommend to the Township Board approval of the proposed amendments to Article 7 provided that the ordinance is revised in regard to the climate controlled indoor storage to include the flexibility suggested by Commissioner Rauch as discussed this evening.

Supported by Commissioner Rickard.

The motion carried unanimously.

OPEN PUBLIC HEARING #3... Discussion regarding amendments to Article 11 of the Zoning Ordinance.

Ms. VanMarter briefly reviewed the proposed changes. There are many changes proposed to this section stemming from administering and enforcing the ordinance as well as changes often requested by residents. The additional 2-feet of fence height being requested is the single most requested revision staff receives from the community. Given the late hour of the meeting she suggested that the Commissioners review the changes and get back to her if they have any questions or concerns with what is being proposed.

Commissioner Dhaenens stated that charging stations and their associated solar panels for electric cars are coming. The solar charging stations are coming to retail parking lots in addition to homes. Mr. Borden suggested that we could add solar charging stations in parking lots in Article 14.

Commissioner Rauch questioned on if the changes to the permitted projections will make restrictions on small lake lots greater. Ms. VanMarter responded that when the 5 foot reduction change to the side yard setback was made years ago, the permitted projections were not considered and now allow projections as close as 2 feet to a side property line that could cause problems for maintenance and trespass so the proposed change is to ensure there is a minimum of 3 feet of setback in situations where a projection would extend into the required side yard.

Commissioner McCreary asked if there are any ordinances about docks that regulate size, shape, placement or construction. Ms. VanMarter indicated she will research other community ordinances in lake communities.

ADMINISTRATIVE BUSINESS:

Staff Report

Ms. VanMarter stated applications have been received for the June Planning Commission meeting from Enterprise and Masonite. In addition the Article 25 amendments as discussed this evening will be on the agenda.

Approval of the April 8, 2019 Planning Commission meeting minutes

Moved by Commissioner McCreary, seconded by Commissioner Dhaenens, to approve the minutes of the April 8, 2019 Planning Commission Meeting as presented. **The motion carried unanimously.**

Member Discussion

Commissioners Dhaenens and Rauch indicated that they will not be able to attend the June Meeting. Chairman Brown may also miss June's meeting but will do his best to attend. Ms. VanMarter indicated that all remaining members would need to attend the meeting or else the meeting would need to be cancelled due to lack of quorum. Commissioner Rickard indicated she is unable to attend the July meeting.

Adjournment

Moved by Commissioner Dhaenens, seconded by Commissioner Rickard, to adjourn the meeting at 9:33 pm. **The motion carried unanimously.**

Respectfully Submitted,

Kelly VanMarter, Recording Secretary