

**GENOA CHARTER TOWNSHIP**  
**Public Hearing and Regular Meeting**  
**September 2, 2008**  
**6:30 p.m.**

**AGENDA**

Call to Order

Pledge of Allegiance

Call to the Public

**Approval of Consent Agenda:**

1. Payment of Bills
2. Request to approve minutes: 8-18-08
3. Request for approval of assigning Genoa Charter Township Whitehorse Drive easement to the Livingston County Road Commission.
4. Request for an amendment to the general fund budget increasing legal fees from \$125,000 to \$275,000.
- 5a. Consider acceptance of a letter of resignation from Teri Olsen and to commend and thank her for her years of excellent service to the Township
- 5b. Request for appointment of Lauren Brookins to the Planning Commission to complete the unexpired term of Teri Olson, ending 06/30/10.
6. Approval of the NATaT Conference Budget.

**Approval of Regular Agenda:**

7. Discussion and consideration of an adjustment to the refuse collection and disposal fee.
8. Request for approval and adoption of Ordinance Number Z-08-01 to amend the Zoning Map of Genoa Charter Township by rezoning 42 parcels consisting of approximately 127 acres of land in Sections 6, 10, 13, 14, 21, 24, 27, 28, & 36, petitioned by Genoa Charter Township.
9. Request for approval and adoption of Ordinance Number Z-08-02 to amend the Zoning Map of Genoa Charter Township by rezoning properties located at 4489 and 4495 Oak Pointe Drive (Parcels 4711-28-400-002 and 4711-28-400-003) from MUPUD to LRR, petitioned by Genoa Charter Township.
10. Request for approval of a special use application, impact assessment and site plan for a proposed day care center located in an existing building at 1183 Parkway Dr. Howell, MI 48843, Sec. 5, petitioned by AZD Associates.
11. Request for approval to adjourn to a closed session of the Board to discuss the purchase of real estate.

Correspondence  
Member Discussion  
Adjournment

CHECK REGISTERS FOR TOWNSHIP BOARD MEETING

DATE: September 2, 2008

TOWNSHIP GENERAL EXPENSES; Thru September 2, 2008	\$97,058.01
August 22, 2008 Bi Weekly Payroll	\$38,538.84
September 2, 2008 Monthly Payroll	\$11,095.94
OPERATING EXPENSES; Thru September 2, 2008	\$56,849.72
TOTAL:	<u>\$ 203,542.51</u>

**First National  
Direct Deposit  
AUGUST 22, 2008  
Bi-Weekly Payroll**

<u>Employee Name</u>	<u>Debit Amount</u>	<u>Credit Amount</u>
Adam Van Tassell		\$1,092.59
Amy Ruthig		\$940.06
Angela Williams		\$677.67
Barb Kries		\$1,203.33
Carol Hanus		\$1,176.68
Cinthia Howard		\$562.65
Dave Estrada		\$1,213.07
Deborah Rojewski		\$2,170.87
<b>Genoa Township</b>	<b>\$24,492.46</b>	
Greg Tatara		\$2,199.48
Judith Smith		\$0.00
Karen J. Saari		\$902.85
Kelly VanMarter		\$1,899.34
Laura Mroccka		\$1,219.09
Mary Krencicki		\$1,098.72
Michael Archinal		\$2,386.41
Renee Gray		\$900.85
Robin Hunt		\$1,223.69
Susan Sitner		\$571.02
Tammy Lindberg		\$919.57
Tesha Humphriss		\$2,134.52
<b>Total Deposit</b>		<b><u><u>\$24,492.46</u></u></b>

EFT #: \_\_\_\_\_  
INTERNET: \_\_\_\_\_  
CHECK BOOK: \_\_\_\_\_

Accounts Payable  
Computer Check Register



User: sue

Printed: 08/15/2008 - 15:57

Bank Account: 101CH

Check	Vendor No	Vendor Name	Date	Invoice No	Amount
24463	Administ	Total Administrative Services	08/22/2008		357.67
Check 24463 Total:					357.67
9571	AETNA LI	Aetna Life Insurance & Annuity	08/22/2008		25.00
Check 9571 Total:					25.00
9572	EFT-FED	EFT- Federal Payroll Tax	08/22/2008		3,981.05 2,092.43 2,092.43 489.35 489.35
Check 9572 Total:					9,144.61
9573	EFT-PENS	EFT- Payroll Pens Ln Pyts	08/22/2008		678.90
Check 9573 Total:					678.90
24464	Equitabl	Equivest Unit Annuity Lock Box	08/22/2008		620.00
Check 24464 Total:					620.00
9574	FIRST NA	First National Bank	08/22/2008		250.00 2,325.00 21,847.46 70.00

Check 9574 Total: 24,492.46

24465 SOM-TRE State Of Mich- Dept Of Treasur 08/22/2008

3,220.20

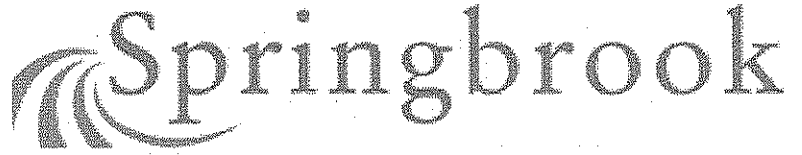
Check 24465 Total: 3,220.20

Report Total: 38,538.84

**First National  
Direct Deposit  
SEPTEMBER 1, 2008  
Monthly Payroll**

<b><u>Employee Name</u></b>	<b><u>Debit Amount</u></b>	<b><u>Credit Amount</u></b>
<b>Genoa Township</b>	<b>\$6,751.52</b>	
<b>Adam Van Tassel</b>		<b>\$508.55</b>
<b>Gary McCririe</b>		<b>\$1,741.75</b>
<b>H.J. Mortensen</b>		<b>\$332.46</b>
<b>Jean Ledford</b>		<b>\$605.54</b>
<b>Paulette Skolarus</b>		<b>\$3,080.19</b>
<b>Steve Wildman</b>		<b>\$316.80</b>
<b>Todd Smith</b>		<b>\$166.23</b>
<b>Total Deposit</b>		<b><u><u>\$6,751.52</u></u></b>

Accounts Payable  
Computer Check Register



User: sue

Printed: 08/27/2008 - 10:44

Bank Account: 101CH

Check	Vendor No	Vendor Name	Date	Invoice No	Amount
24493	Administ	Total Administrative Services	09/02/2008		100.00
Check 24493 Total:					100.00
9576	EFT-FED	EFT- Federal Payroll Tax	09/02/2008		2,089.04 661.53 661.53 154.72 154.72
Check 9576 Total:					3,721.54
9577	EFT-PENS	EFT- Payroll Pens Ln Pyts	09/02/2008		193.33
Check 9577 Total:					193.33
24494	Equitabl	Equivest Unit Annuity Lock Box	09/02/2008		20.00
Check 24494 Total:					20.00
9578	FIRST NA	First National Bank	09/02/2008		6,701.52 50.00
Check 9578 Total:					6,751.52
24495	USTREA	United States Treasury	09/02/2008		309.45

Check 24495 Total:

309.45

Report Total:

11,095.84



<u>Check Number</u>	<u>Vendor No</u>	<u>Vendor Name</u>	<u>Check Date</u>	<u>Check Amount</u>
2587	DTE LAKE	DTE Energy	08/21/2008	56.87
9571	AETNA LI	Aetna Life Insurance & Annuity	08/22/2008	25.00
9572	EFT-FED	EFT- Federal Payroll Tax	08/22/2008	9,144.61
9573	EFT-PENS	EFT- Payroll Pens Ln Pyts	08/22/2008	678.90
9574	FIRST NA	First National Bank	08/22/2008	24,492.46
9575	MERS	MERS	08/25/2008	1,079.10
9576	EFT-FED	EFT- Federal Payroll Tax	09/02/2008	3,721.54
9577	EFT-PENS	EFT- Payroll Pens Ln Pyts	09/02/2008	193.33
9578	FIRST NA	First National Bank	09/02/2008	6,751.52
24463	Administ	Total Administrative Services	08/22/2008	357.67
24464	Equitabl	Equivest Unit Annuity Lock Box	08/22/2008	620.00
24465	SOM-TRE	State Of Mich- Dept Of Treasur	08/22/2008	3,220.20
24466	ATT& IL	AT&T	08/21/2008	752.61
24467	FED EXPR	Federal Express Corp	08/21/2008	92.31
24468	MI Soc P	Michigan Association of Planni	08/21/2008	1,660.00
24469	Unum	Unum Provident	08/21/2008	1,044.60
24470	VERIZONW	Verizon Wireless	08/21/2008	338.85
24471	DTE LAKE	DTE Energy	08/21/2008	174.59
24472	VanMarte	Kelly VanMarter	08/26/2008	101.51
24473	ADT	ADT Security Services, Inc.	09/02/2008	223.22
24474	ARCHINAL	Michael Archinal	09/02/2008	500.00
24475	AT&TLONG	AT&T Long Distance	09/02/2008	52.18
24476	boss	Boss Engineering	09/02/2008	4,800.00
24477	CBTS	Cincinnati Bell Tech Solutions	09/02/2008	720.00
24478	COMCAST	COMCAST	09/02/2008	94.04
24479	EHIM	EHIM, INC	09/02/2008	491.82
24480	ETNA SUP	Etna Supply Company	09/02/2008	1,800.00
24481	HUMPHT	Tesha Humphriss	09/02/2008	500.00
24482	JIM'S TR	James A. Frakes	09/02/2008	100.00
24483	LAKESIDE	Lakeside Service Company, Inc.	09/02/2008	131.00
24484	M.H.O.G.	M.H.O.G.	09/02/2008	6,241.68
24485	MASTER M	Master Media Supply	09/02/2008	110.48
24486	Miller C	Miller,Canf,Paddock,&Stone,PLC	09/02/2008	22,089.39
24487	Net serv	Network Services Group, L.L.C.	09/02/2008	300.00
24488	PEBBCRE	Pebble Creek Services	09/02/2008	385.00
24489	SHELL	Shell	09/02/2008	61.28
24490	TRI COUN	Tri County Cleaning Supply Inc	09/02/2008	147.43
24491	VERIZONW	Verizon Wireless	09/02/2008	398.05
24492	WALMART	Walmart Community	09/02/2008	131.32
24493	Administ	Total Administrative Services	09/02/2008	100.00
24494	Equitabl	Equivest Unit Annuity Lock Box	09/02/2008	20.00
24495	USTREA	United States Treasury	09/02/2008	309.45
2034264	PARDEE	Pardee Lake Association	09/02/2008	2,046.00
2035264	PARDEE	Pardee Lake Association	09/02/2008	800.00

**Report Total: 97,058.01**

10:13 AM  
08/26/08

**#592 OAK POINTE WATER/SEWER FUND**  
**Payment of Bills**  
August 7 - 26, 2008

<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Amount</u>
Check	08/13/2008	1127	DTE ENERGY	06/30 thru 07/31/08	-855.91
Check	08/13/2008	1128	SEVERN TRENT ENVIRONMENTAL SERVICES,	INV#2037473 &2037475	-30,115.72
Check	08/13/2008	1129	US Postal Service	Oak Pointe Utility Billings	-273.70
<b>TOTAL</b>					<b>-31,245.33</b>

10:14 AM  
08/26/08

**#592 OAK POINTE Capital WATER/SEWER FUND**  
**Payment of Bills**  
August 7 - 26, 2008

Type    Date    Num    Name    Memo    Amount

No checks Issued

10:09 AM  
08/26/08

**#593 LAKE EDGEWOOD W/S FUND**  
**Payment of Bills**  
August 7 - 26, 2008

<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Amount</u>
Check	08/21/2008	1359	AT&T	08/07 thru 09/06/08	-207.79
Check	08/21/2008	1360	Brighton Analytical L.L.C.	CustomerID# GENOATWPHOWELL	-134.00
Check	08/21/2008	1361	Consumers Energy	Electric Service07/04 to 08/04/08	-34.09
Check	08/21/2008	1362	D & G EQUIPMENT, INC.	Inv#613965	-871.25
Check	08/21/2008	1363	HARTLAND SEPTIC SERVICE	Inv#08050804	-788.00
Check	08/21/2008	1364	MICHIGAN CAT	INV#SD570000780	-923.74
Check	08/21/2008	1365	PVS NOLWOOD CHEMICALS, INC	Inv#264527	-873.80
Check	08/21/2008	1366	POWERVAC OF MICHIGAN	Inv#458974	-915.00
Check	08/21/2008	1367	SEVERN TRENT ENVIRONMENTAL SERVICES,	Inv#STES2037474	-7,973.99
Check	08/21/2008	1368	USA BLUE BOOK	supplies	-107.62
<b>TOTAL</b>					<b>-12,829.28</b>

10:07 AM  
08/26/08

**#504 DPW RESERVE FUND**  
**Payment of Bills**  
August 7 - 26, 2008

Type    Date    Num    Name    Memo    Amount

No checks issued

9:59 AM  
08/26/08

**#503 DPW UTILITY FUND**  
**Payment of Bills**  
August 7 - 26, 2008

<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Amount</u>
Check	08/08/2008	1094	AMERICAN IMAGING, INC	Inv#58194	-5,442.00
Check	08/22/2008	1095	BELLE TIRE		-266.50
Check	08/22/2008	1096	D&G Equipment, Inc.		-219.41
Check	08/22/2008	1097	GRUNDY ACE OF HOWELL	Inv#62973	-32.52
Check	08/22/2008	1098	Grainger	Acct#862003803	-305.94
Check	08/22/2008	1099	Carol Hanus	Reimbursement 8/5 thru 9/4/08	-129.98
Check	08/22/2008	1100	HOWELL TRUE VALUE HARDWARE	Customer#451339/Inv#033689	-2.45
Check	08/22/2008	1101	J.J.Jinkleheimer	Order# 14514	-93.75
Check	08/22/2008	1102	LOWE'S	Acct# 99006416418	-956.68
Check	08/22/2008	1103	Master Media	Inv#56166	-164.64
Check	08/22/2008	1104	Springbrook	Inv#9525 - Adjusted Billing	-4,560.00
Check	08/23/2008	1105	Shell Fleet Plus	Acct#065332306	-601.24
<b>TOTAL</b>					<b>-12,775.11</b>

10:10 AM  
08/26/08

**#595 PINE CREEK W/S FUND**  
**Payment of Bills**  
August 7 - 26, 2008

Type    Date    Num    Name    Memo    Amount

No checks issued

**GENOA CHARTER TOWNSHIP**  
**Public Hearing and Regular Meeting**  
**August 18<sup>th</sup>, 2008**  
**6:30 p.m.**

**MINUTES**

Trustee Todd Smith called the meeting of the Genoa Charter Township Board to order at 6:30 p.m. in place of Gary McCririe. The Pledge of Allegiance was then said. The following persons were present constituting a quorum for the transaction of business: Paulette Skolarus, Robin Hunt, Todd Smith, Jean Ledford, Steve Wildman and Jim Mortensen. Also present were Township Manager Michael Archinal and approximately twenty persons in the audience.

A Call to the Public was made with no response.

**Approval of Consent Agenda:**

Moved by Ledford, supported by Mortensen, to approve all items listed under the consent agenda as presented. The motion carried unanimously.

**1. Payment of Bills**

**2. Request to approve minutes: 8-4-08**

**3. Request to authorize a publication and set public hearing for September 2, 2008 at 6:30 p.m. for an update to the Genoa Charter Township Zoning Map by changing the current zoning of 34 parcels, petitioned by Genoa Charter Township.**

**4. Request to authorize a publication and set public hearing for September 2, 2008 at 6:30 p.m. for a request to rezone parcels 11-28-400-004 and 11-28-400-003 from MUPUD to LRR, petitioned by Genoa Charter Township.**

**5. Consideration of a request for approval of the Assessor's affidavit of the 2008 Millage levies for Genoa Charter Township, establishing the Millage levy at 0.8146 as request by Debra Rojewski.**

**Approval of Regular Agenda:**

Moved by Hunt, supported by Mortensen, to approve for action all items listed under the regular agenda as submitted. The motion carried unanimously.

**6. Public Hearing on the Round Lake Special Assessment District for Aquatic Weed Control.**

Mr. Jeff Geist, representing Round Lake Homeowners, addressed the board. Geist – A recent survey of the lake determined that Round Lake does not require sonar or chemical

treatment for control of Eurasian Water milfoil. The D.E.Q. restricts the application of Fluridone to lakes heavily enveloped with Eurasian Milfoil. The study concluded that harvesting is the best treatment for Round Lake with a spot application of Fluridone where Eurasian Milfoil is present.

**A. Call to property owners.**

A call to property owners was made with residents responding that they would like to go forward with the project. A letter of objection was received from Edna Nagy citing a financial hardship.

**B. Call to the public.**

A call to the public was made with no response.

**7. Request for approval of Resolution No. 2 (approving the project, cost estimates, special assessment district and causing the special assessment roll to be prepared) for the Round Lake Aquatic Weed Control Project.**

Moved by Skolarus, supported by Ledford, to table Resolution No. 2 for Round Lake until new bids are received with regard to the cost of harvesting. Further, to commence the process for aquatic weed control for Round Lake beginning with Resolution No. 1 and again setting two public hearings. The motion carried unanimously.

**8. Request for approval of Resolution No. 3 (acknowledging the filing of the special assessment roll, scheduling the second hearing and directing the issuance of statutory notices) for the Round Lake Aquatic Weed Control Project.**

Moved by Skolarus, supported by Mortensen, to table Resolution No. 3 as submitted. The motion carried unanimously.

**9. Request for approval to transfer ownership of a 2008 Class C licensed business, located at 3950 E. Grand River, Howell, MI 48843, Genoa Charter Township, Livingston County, from the Sweet Onion, Inc. to Fast Casual, LLC.**

Moved by Ledford, supported by Mortensen, to approve the transfer of the Class C license as requested. The motion carried by roll call vote as follows: Ayes – Ledford, Hunt, Smith, Wildman, Mortensen and Skolarus. Nay – None. Absent – McCririe.

**10. Request for approval for of a Resolution from the Livingston County Drain Commissioner to spend funds in excess of the yearly-allotted maintenance amount to make necessary repairs to the Genoa No. 1 Drain.**

Mr. Kenneth Recker, Chief Deputy Drain Commissioner, addressed the board concerning Genoa No. 1 Drain. Recker – The drain was established in 1885 and was cleaned out in 1888 at a cost of \$672.00. Obstructions were excavated both north and south of Pardee Road in 2001 and 2005. The profile of the drain today indicates that the drain has silted in. The budget for excavation is estimated to be \$37,600, with the Township portion

GENOA CHARTER TOWNSHIP BOARD – Regular meeting and public hearing –  
August 18, 2008

tentatively estimated at \$9,400.00. Moved by Mortensen, supported by Ledford, to approve the resolution as requested. The motion carried unanimously with McCririe absent. The resolution was then executed by all board members present.

**11. Request for approval to update the Ordinance addressing Floodplain Management Provisions of the State Code.**

Moved by Hunt, supported by Ledford, to approve the ordinance with the official dates of Sept. 17, 2008 for the mapping. The motion carried unanimously.

A request for a special assessment district for the installation of natural gas was discussed by the board. It was the consensus of the board that this could not be accomplished under any existing public act as the lines and rights-of-way are owned by the gas company.

The regular meeting of the Genoa Charter Township Board was adjourned at 7:40 p.m.




Paulette A. Skolarus  
Genoa Township Clerk

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(Press/argus 08/22/08)

## MEMORANDUM

TO: Township Board

FROM: Michael Archinal, Manager 

DATE: 8/27/08

RE: White Horse Easement Assignment

Genoa Charter Township obtained an easement from CMS Energy for the construction of Whitehorse Drive over the power corridor. The Township Attorney recommends that the easement must now be assigned to the Livingston County Road Commission so that they may provide maintenance on the road. Please consider the following action:

**Moved by \_\_\_\_\_, supported by \_\_\_\_\_, to assign an easement for Whitehorse Drive to the Livingston County Road Commission as prepared by the Township Attorney.**

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**ASSIGNMENT OF EASEMENT FOR A PUBLIC ROAD**

This Assignment is made by Genoa Charter Township with offices located at 2911 Dorr Road, Brighton, Michigan 48116, hereinafter called "Genoa" and the Board of Road Commissioners for the County of Livingston with offices located at 3535 Grand Oaks Drive, Howell, Michigan 48843, hereinafter called "Road Commission".

Recitals

WHEREAS, on or about September 28, 2005 Consumers Energy Company made and delivered to Genoa an easement for a public road over and across lands owned by Consumers Energy Company, and

WHEREAS, the 66 foot wide road easement is described in the attached Rider A, and

WHEREAS, the said easement is recorded at Liber \_\_\_\_\_, Page \_\_\_\_\_, Livingston County Records, and

WHEREAS, the said road easement was subject to certain express conditions and reservations, and

WHEREAS, Genoa made certain covenants to Consumers Energy Company, and

WHEREAS, the road known as Whitehorse Drive has been constructed over the easement premises herein described.

NOW THEREFORE, in consideration of the Board of Road Commissioners for the County of Livingston agreeing to accept Whitehorse Drive as a public road IT IS AGREED as follows:

1. Genoa does hereby assign to the Board of Road Commissioners for the County of Livingston the easement for a public road herein described in the attached Rider A.
2. By the assignment of the road easement to the Board of Road Commissioners for the County of Livingston Genoa is not relieved of any covenant made to Consumers Energy described in the recorded easement for a public road. Further, it is



agreed between the parties that by the assignment of the road easement the Board of Road Commissioners for the County of Livingston is not bound by the covenants made by Genoa.

- 3. This easement is a permanent highway easement and shall be binding upon all heirs, successors and assigns and is dedicated to the Livingston County Road Commission for the use of the public.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2008

GENOA CHARTER TOWNSHIP

By: \_\_\_\_\_  
Gary T. McCririe  
Its Supervisor

STATE OF MICHIGAN        |  
                                  |ss  
COUNTY OF LIVINGSTON   |

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008 by Gary T. McCririe, the Supervisor of Genoa Charter Township, with full authority to do so.

\_\_\_\_\_  
Richard A. Heikkinen  
Notary Public  
Livingston County, Michigan  
My commission expires: 10/24/2014  
Acting in Livingston County MI

Acceptance on behalf of the Board of Road Commissioners for the County of Livingston on \_\_\_\_\_, 2008, by:

By: \_\_\_\_\_  
Michael Craine  
Its Managing Director

Drafted By:  
Richard A. Heikkinen  
THE HEIKKINEN LAW FIRM, P.C.  
110 N. Michigan Avenue  
Howell MI 48843

Return To:  
Livingston County Road Commission  
3535 Grand Oaks Drive  
Howell MI 48843

## RIDER A

A 66-foot-wide strip of land in the Southwest 1/4 of Section 4, T2N, R5E, described as follows: Commencing at the South 1/4 corner of Section 4; thence N 89° 14' 44" W 1314.00 feet, along the South section line; thence N 02° 00' 42" E 272.53 feet; thence, along a non-tangent curve to the right, in the Northwest direction, having a arc distance of 88.13 feet, a radius of 333.00 feet, a central angle of 15° 09' 47", and a chord bearing and distance of N 33° 02' 48" W 87.87 feet; thence, along a curve to the left, having a arc distance of 13.29 feet, a radius of 257.29 feet, a central angle of 2° 57' 32", and a chord bearing and distance of N 26° 56' 46" W 13.29 feet; thence N 28° 25' 32" W 4.14 feet to a point on the East line of Consumers Energy Company's 97-foot-wide fee strip, and the point of beginning of this description; thence N 28° 25' 32" W 29.43 feet; thence, along a curve to the left, having an arc distance of 111.85 feet, a radius of 180.00 feet, a central angle of 35° 36' 10", and a chord bearing and distance of N 46° 13' 37" W 110.06 feet, to a point on the West line of said fee strip; thence N 02° 00' 42" E, along said West line, 70.40 feet; thence, along a non-tangent curve to the right, having an arc distance of 113.61 feet, a radius of 246.00 feet, a central angle of 26° 27' 37", and a chord bearing and distance of S 57° 28' 19" E 112.60 feet, to a point on the East line of said fee strip; thence S 02° 00' 42" W, along said East line, 111.90 feet, to the point of beginning.

## MEMORANDUM

TO: Township Board

FROM: Michael Archinal, Manager *Ma. A.*

DATE: 8/27/08

RE: Planning Commission Resignation and Appointment

Teri Olson has submitted a letter of resignation from the Planning Commission. Please consider the following action:

**Moved by \_\_\_\_\_, supported by \_\_\_\_\_, to accept the letter of resignation from Terri Olson and to commend and thank her for her years of service to the Township.**

**Moved by \_\_\_\_\_, supported by \_\_\_\_\_, to appoint Lauren Brookens to the Planning Commission to complete the unexpired term of Teri Olson.**

**Gary**

---

**From:** toison@iserv.net  
**Sent:** Wednesday, August 13, 2008 10:39 PM  
**To:** gary@genoa.org  
**Subject:** Resignation

Gary,  
Due to personal reasons, I need to resign from the Planning Commission.  
There are matters in my family that need my attention at this time and I need to cut back on some of my responsibilities.

I have really enjoyed being a part of the commission and appreciated you appointing me. I would like to be considered for a future appointment as I value the opportunity to have input in the development of my community.  
I also would like to commend Kelly VanMarter as the planning director.  
She has always assisted me when needed and is an tremendous asset for the planning commission as a whole.

Thank you for your past support of my appointment.  
Respectfully,  
Teri Olson  
August 13, 2008  
810-227-9020

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No virus found in this incoming message.  
Checked by AVG.  
Version: 7.5.524 / Virus Database: 270.6.0 - Release Date: 8/8/2008 12:00 AM

**Gary**

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**From:** Lauren Brookins [lauren\_518@yahoo.com]  
**Sent:** Tuesday, August 26, 2008 6:25 PM  
**To:** Gary  
**Subject:** Planning Commission  
**Attachments:** \_AVG certification\_.txt

**Gary McCririe, Supervisor**

**Genoa Charter Township**

**2911 Dorr Road, Brighton , MI 48116**

**Dear Mr. McCririe:**

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**It has come to my attention there is a vacancy on the Genoa Charter Township planning commission, and I would like to express my interest in becoming a member.**

**I have a desire to “give to my community”, and have done so for several years as a member of the Brighton Area Fire Department.**

**I would like to take that desire to another level, and believe that our Township’s “hub” location in Livingston County creates a need for the community to have good, sound planning decisions as it seeks to achieve the vision of the Township’s master plan.**

**I am available to attend scheduled night meetings, and my work schedule is flexible enough that I can attend daytime meetings, and seminars, if**

8/27/2008

**needed.**

**Finally, I am excited to become a planning commission member, and feel that I can provide a bright, and youthful perspective to our community planning efforts.**

**If you need further information, please feel free to contact me at (810) 577-7649, and I truly look forward to hearing from you and being on the planning commission!**

**Sincerely,**

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**Lauren A. Brookins**

**Information  
regarding the  
NATaT Conference  
Budget will be  
available on Monday  
night.**

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## MEMORANDUM

TO: Township Board

FROM: Michael Archinal, Manager *MA*

DATE: 8/27/08

RE: Refuse Collection Fee Adjustment

The subsidy of refuse collection continues to represent a large portion of the General Fund. The true cost of collection is roughly \$118 per household. We currently charge \$90. As the number of homes has increased the burden on the General Fund has increased. Staff recommends an incremental adjustment be made to bring the charge more in line with the true cost. Staff does not recommend a large one time increase that would cause a hardship for our residents. Please consider the following action:P

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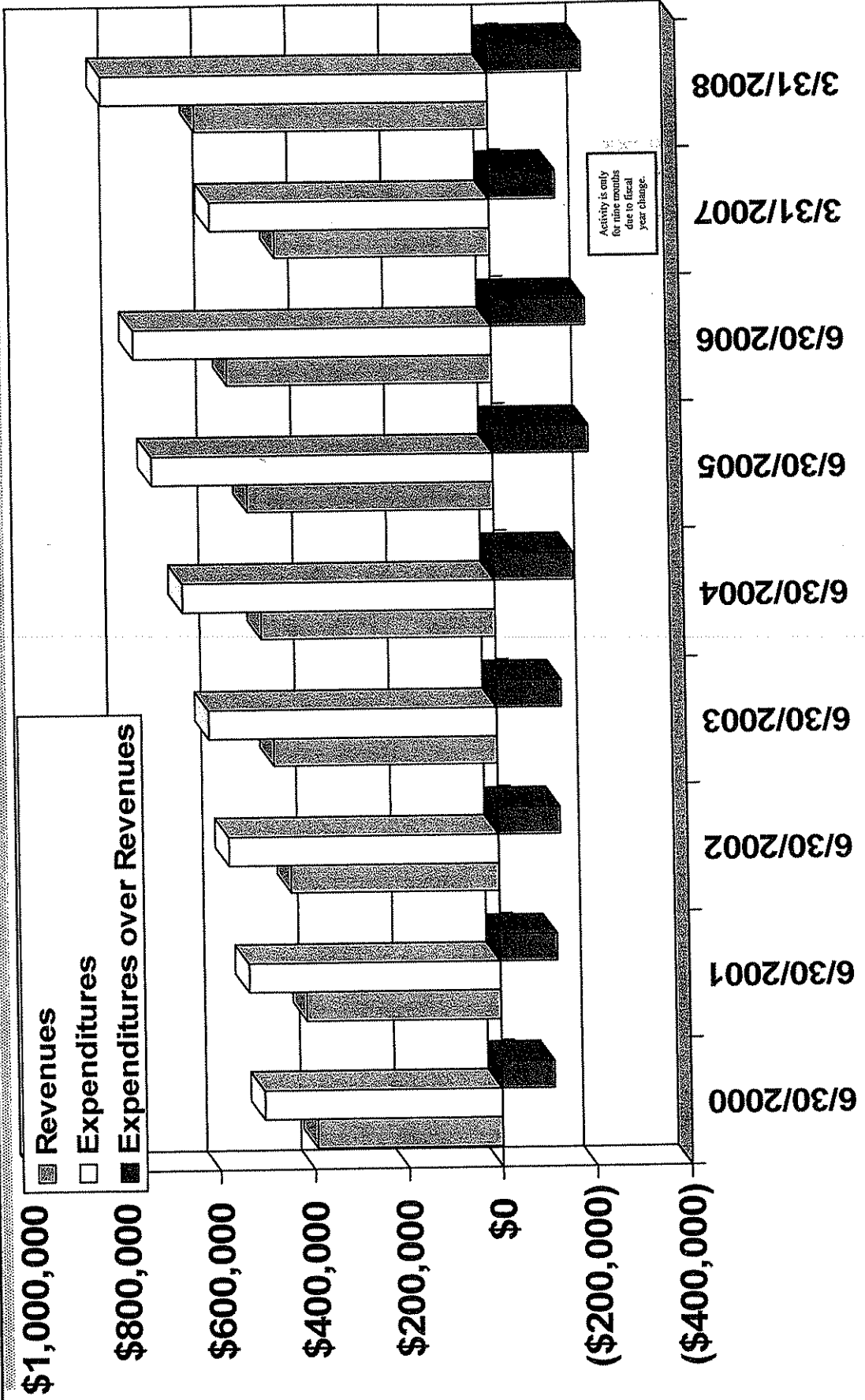
**Move by \_\_\_\_\_, supported by \_\_\_\_\_, to increase the refuse collection fee from \$90 per year to \$95 per year.**



# Charter Township of Genoa

## Refuse Collection

For The Years Ended June 30, 2000 – 2006, March 31, 2007-2008



# Memo

**To:** Genoa Township Board  
**From:** Kelly VanMarter, Planning Director  
**CC:** Michael Archinal, Manager  
**Date:** 8/28/2008  
**Re:** September 2, 2008 Board Agenda Item #8

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**Agenda Item:** Request for approval of Ordinance Number Z-08-01 to amend the Zoning Map of Genoa Charter Township by rezoning 42 parcels consisting of approximately 127 acres of land in Sections 6, 10, 13, 14, 21, 24, 27, 28, & 36, petitioned by Genoa Charter Township.

**Planning Commission Action:** Recommendation for approval. Motions carried unanimously.

**Livingston County Planning Commission Action:** Recommendation for approval (6-0).

**Recommendation for Township Board Action:** Staff recommends approval of the proposed rezoning.

**Suggested Motion:**

Moved by \_\_\_\_\_, Supported by \_\_\_\_\_ to approve and adopt Ordinance Number Z-08-01 to amend the zoning map by rezoning 42 parcels in sections 6, 10, 13, 14, 21, 24, 27, 28 & 36. The rezoning is granted because it meets the criteria of Section 22.04 of the Genoa Charter Township Zoning Ordinance.

**ORDINANCE NO. Z-08-01**

**AN ORDINANCE ENTITLED  
AN ORDINANCE TO AMEND THE ZONING MAP OF  
THE CHARTER TOWNSHIP OF GENOA BY REZONING 42 PARCELS  
CONSISTING OF APPROXIMATELY 127 ACRES OF LAND IN SECTIONS 6,  
10, 13, 14, 21, 24, 27, 28, & 36.**

GENOA CHARTER TOWNSHIP  
LIVINGSTON COUNTY, MICHIGAN

**THE CHARTER TOWNSHIP OF GENOA HEREBY ORDAINS that the Zoning Map shall be amended as follows:**

The Zoning Map, as incorporated by reference in the Charter Township of Genoa's Zoning Ordinance, is hereby amended by the rezoning of the following parcels of real property.

No.	Tax Code Number	Existing Zoning	Proposed Zoning	No.	Tax Code Number	Existing Zoning	Proposed Zoning
1	11-06-200-025	OSD	GCD	22	11-21-301-001	CE	MUPUD
2	11-10-400-020	GCD/IND	GCD	23	11-21-301-003	CE	MUPUD
3	11-13-100-013	IND	GCD	24	11-21-301-004	CE	MUPUD
4	11-13-100-016	IND	GCD	25	11-21-301-005	CE	MUPUD
5	11-13-100-017	IND	GCD	26	11-21-301-006	CE	MUPUD
6	11-13-100-021	IND	GCD	27	11-21-301-007	CE	MUPUD
7	11-13-100-058	IND	GCD	28	11-21-301-008	CE	MUPUD
8	11-13-300-007	IND	GCD	29	11-21-301-009	CE	MUPUD
9	11-13-300-008	IND	GCD	30	11-21-301-010	CE	MUPUD
10	11-13-300-021	IND	GCD	31	11-24-200-078	RR	SR
11	11-13-300-035	GCD/MHP	GCD	32	11-24-200-079	RR	SR
12	11-13-400-003	OSD	SR	33	11-27-300-002	MUPUD	LDR
13	11-13-401-023	OSD	SR	34	11-28-100-014	MUPUD	LRR
14	11-13-401-024	OSD	SR	35	11-28-100-023	MUPUD	LRR
15	11-13-401-025	OSD	SR	36	11-28-100-024	MUPUD	LRR
16	11-13-401-045	OSD	SR	37	11-28-100-025	MUPUD	LRR
17	11-13-401-048	OSD	SR	38	11-28-100-026	MUPUD	LRR
18	11-14-201-048	LRR/SR	LRR	39	11-28-200-001	LDR	LRR
19	11-14-201-049	LRR/SR	LRR	40	11-28-200-002	LDR	LRR
20	11-21-203-031	LDR	RPUD	41	11-28-200-003	LDR	LRR
21	11-21-203-032	LDR	RPUD	42	11-36-300-009	RPUD	LDR

**Repealor:** All ordinances or parts of Ordinances in conflict herewith are repealed.

**Severability:** Should any section, subsection, paragraph, sentence, clause or word of this Ordinance be held invalid for any reason, such decisions shall not affect the validity of the remaining portions of the Ordinance.

**Savings:** This amendatory ordinance shall not affect violations of the Zoning Ordinance or other ordinance existing prior to the effective date of this Ordinance and such violations shall be governed and shall continue to be separately punishable to the full extent of the law under the provisions of such ordinance at the time the violation was committed.

**Effective Date:** This Ordinance shall be effective upon publication in a newspaper of general circulation as required by law.

On the motion to adopt the Ordinance the following vote was recorded:

**Yeas:**

**Nays:**

**Absent:**

I hereby approve the adoption of the foregoing Ordinance this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Paulette Skolarus  
Township Clerk

\_\_\_\_\_  
Gary McCririe  
Township Supervisor

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Township Board First Reading: August 18, 2008  
Date of Publication of Proposed Ordinance: August 22, 2008  
Township Board Second Reading and Adoption:  
Date of Publication of Ordinance Adoption:  
Effective Date:

**GENOA CHARTER TOWNSHIP**  
**Public Hearing and Regular Meeting**  
**August 18<sup>th</sup>, 2008**  
**6:30 p.m.**

**MINUTES**

Trustee Todd Smith called the meeting of the Genoa Charter Township Board to order at 6:30 p.m. in place of Gary McCririe. The Pledge of Allegiance was then said. The following persons were present constituting a quorum for the transaction of business: Paulette Skolarus, Robin Hunt, Todd Smith, Jean Ledford, Steve Wildman and Jim Mortensen. Also present were Township Manager Michael Archinal and approximately twenty persons in the audience.

A Call to the Public was made with no response.

**Approval of Consent Agenda:**

Moved by Ledford, supported by Mortensen, to approve all items listed under the consent agenda as presented. The motion carried unanimously.

**1. Payment of Bills**

**2. Request to approve minutes: 8-4-08**

**3. Request to authorize a publication and set public hearing for September 2, 2008 at 6:30 p.m. for an update to the Genoa Charter Township Zoning Map by changing the current zoning of 34 parcels, petitioned by Genoa Charter Township.**

**4. Request to authorize a publication and set public hearing for September 2, 2008 at 6:30 p.m. for a request to rezone parcels 11-28-400-004 and 11-28-400-003 from MUPUD to LRR, petitioned by Genoa Charter Township.**

**5. Consideration of a request for approval of the Assessor's affidavit of the 2008 Millage levies for Genoa Charter Township, establishing the Millage levy at 0.8146 as request by Debra Rojewski.**

**Approval of Regular Agenda:**

Moved by Hunt, supported by Mortensen, to approve for action all items listed under the regular agenda as submitted. The motion carried unanimously.

**6. Public Hearing on the Round Lake Special Assessment District for Aquatic Weed Control.**

Mr. Jeff Geist, representing Round Lake Homeowners, addressed the board. Geist – A recent survey of the lake determined that Round Lake does not require sonar or chemical

**GENOA CHARTER TOWNSHIP  
PLANNING COMMISSION  
PUBLIC HEARING  
JULY 14<sup>th</sup>, 2008  
6:30 P.M.  
AGENDA**

CALL TO ORDER: At 6:33 p.m., the work session of the Genoa Township Planning Commission was called to order. Present constituting a quorum were Chairman Doug Brown, Barbara Figurski, James Mortensen, Chris Grajek, Dean Tenge and Diana Lowe. Also present were Brian Borden of LSL and Tesha Humphriss, Township Engineer, and Kelly VanMarter, Planning Director.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was recited.

APPROVAL OF AGENDA: Upon motion by Barbara Figurski and support by Chris Grajek, the agenda was approved as submitted. **Motion carried unanimously.**

WORK SESSION: A work session was not requested.

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 request to update the Genoa Charter Township Zoning Map by rezoning parcels 11-13-100-013, 11-13-100-016, 11-13-100-017, 11-13-100-021, 11-13-100-058, 11-13-300-007, 11-13-300-008 and 11-13-300-021 from IND to GCD, petitioned by Genoa Charter Township. (tabled from 6-9-08 meeting)**

Chairman Brown gave a recap of the Planning Commission's discussions regarding the above referenced parcels from the June 9<sup>th</sup> meeting.

Kelly VanMarter indicates that only one property owner doesn't support the rezoning. She notified that property owner, but he did not appear this evening.

John Conley addresses the Planning Commission. He inquires whether he would have to apply for new permits due to rezoning. Chairman Brown indicates that is not necessary unless he makes significant changes in his operations. Kelly VanMarter indicates the use (not the owner) is grandfathered.

**Planning Commission disposition of petition**

A. Recommendation regarding rezoning

**Motion** by James Mortensen to recommend to the Township Board the rezoning of the properties identified as parcels 3-10 in the LSL letter of 5/30/08 from industrial commercial, finding it is consistent with the Master Plan and meets the criteria of zoning in ordinance number 22.04. Support by Chris Grajek. **Motion carried unanimously.**

**OPEN PUBLIC HEARING # 2...Review of request to rezone parcels 11-28-400-004 & 11-28-400-003 from MUPUD to LRR, petitioned by Genoa Charter Township.**

Chairman Brown discusses the nature of the request. It is from mixed use to lakeshore resort residential. There was an error many years ago when Burroughs Farms was being sold to Oak Pointe. This request would correct that oversight.

Kelly VanMarter indicates that Mr. MacDonald was at last month's meeting and she exchanged emails with Mr. Price. She has heard nothing further, so assumes that their concerns are eased.

#### **Planning Commission disposition of petition**

##### **A. Recommendation regarding rezoning**

**Motion** by James Mortensen to recommend to the Township Board approval of rezoning the properties bearing tax ID numbers: 11-28-400-002 and 003 from MUPUD to LRR. This motion is made to correct an obvious error in zoning and is consistent with the existing zoning and Master Plan. Support by Chris Grajek. **Motion carried unanimously.**

**OPEN PUBLIC HEARING #3...Review of a special use application, impact assessment and sketch plan for a proposed worship facility to occupy 7181 Grand River, Brighton, Dec. 13, petitioned by Lindhout Associates.**

Architect, Piet Lindhout, Pastor Jeff Waterman and Holly Osterehout, who is an intern with Lindhout & Associates addressed the Planning Commission regarding this application. The proposed church is a daughter church to Cornerstone Church in Brighton.

Piet Lindhout addresses the LSL letter. The parking calculations seem to be correct. He supports the barrier-free area next to the church. Mr. Lindhout addresses the sidewalk request. He feels it is unfair to require this small tenant to provide sidewalks to a large complex where no other tenant is required to install the sidewalk.

James Mortensen indicates that this situation is unusual. He is willing to waive the sidewalk requirement.

5. The supplemental lighting information presenting this evening demonstrating that the lighting is within the Township Zoning Ordinance is acceptable.
6. The requirements spelled out in the Township Engineer letter dated June 3, 2008 shall be complied with. Particular attention shall be paid to item number one regarding the relocation of the shared driveway with the county.

**The motion carried unanimously.**

**OPEN PUBLIC HEARING # 2...Review of request to update the Genoa Charter Township Zoning Map by changing the current zoning of 42 parcels, petitioned by Genoa Charter Township.**

Kelly VanMarter, Township Planning Director and Jeff Purdy with LSL Planning are present representing the Township.

Commissioner Mortensen questions the island in Crooked Lake that is part of Northshore and whether or not that is included. Mrs. VanMarter indicates that the island is not part of this proposal.

Chairman Brown reads into the record the letter received from Mr. and Mrs. Robert and Judith McDonald.

Mr. Robert McDonald questions the Commission on why the change is happening now. If they don't meet the setbacks what happens then. Chairman Brown explains that the PUD for Oak Pointe is a very complex document and that their property was never included in that. The rezoning is proposed now because the Township identified the error in the zoning map as part of an overall review of the Township Zoning Map.

Mr. Purdy explains that the older zoning maps were hand drawn and were not parcel specific. With the new technology and the use of GIS software, today's zoning maps are becoming more accurate and show the zoning of individual parcels. He indicated that the LRR zoning is less restrictive than the Oak Pointe zoning so there is a benefit to the McDonald's by having the Township correct the zoning on the map.

The call the public was made at 8:07 p.m.

Joe Fader of 6812 Rink on Grand Beach asks what a PUD is. Chairman Brown explains the PUD zoning. Mr. Fader asks how the zoning change will affect his property. Chairman Brown replies that the zoning change will not affect his taxes. Mr. Purdy explains the setback requirements for the two districts and indicates that the proposed LRR district is less restrictive. Mr. Fader questions how the zoning change will affect his ability to build another house on his



property in the future. Mrs. VanMarter states that the minimum lot size requirements for the two districts is the same, so the zoning change will not adversely affect the potential to take a lot split in the future.

John Conely of 7208 W. Grand River questions whether or not the tax is the same on commercial or industrial. Chairman Brown replies that tax is based on use not zoning and therefore the zoning change will not affect taxes.

Commissioner Grajek explains how the zoning change may impact the value of the land. Mr. Conely states that if it increases in value that is great, however he does not want it to impact the taxes. Mr. Conely continues that back when this was all discovered no one told him there were mistakes in his zoning. This came at a good time to get this resolved, however it's unfortunate that this mistake wasn't caught earlier when he was trying to expand. It was a tough road so he would like to move forward on a positive track. We need to be sure that we can move forward and treat everyone the same way. This zoning change should not burden anyone and the Township needs to look after everyone that is here tonight.

Mr. Jeff Thompson of Thompson-MacDonald properties is the owner of 7356 W. Grand River. It is about a 2-acre parcel with 300 feet along Grand River. He purchased this property based on the flexibility of having IND zoning with a master planning of GCD. They have a plan for a mixed use office and retail building although with the economy they can't build it. The character of the area has an industrial tone and he is concerned with the change to Commercial. They would like to be removed from the rezoning.

Commissioner Mortensen asks if Mr. Thompson is the owner. Mr. Thompson replied that he is. Commissioner Mortensen questioned what is located on the property currently. Mr. Thompson replied that there is a brick ranch home on the property. Commissioner Mortensen states that he doesn't want to rezone any of the properties in this area on the South side of Grand River. He states that they are currently used as industrial and should remain in the IND zoning.

Commissioner Grajek asked if the Commercial district gives them greater use and value. Jeff Purdy replies that the types of uses are more retail in nature and would probably increase the value because of the Grand River frontage.

Mr. Thompson states that if in the future he requests the GCD he would like the Township to consider it favorably. He understands having to rezone on his own will cost him some money.

John Conely asked what other feedback the Township has received regarding the zoning change in this area. Mrs. VanMarter indicated that she has been contacted by the owner or representative of Best Storage, Handi-Rental, Grace and Porta, Community Bible Church and Smede-Son Steel and none of them indicated opposition to the proposed rezoning.

The call to the public was closed at 8:47 p.m.

Commissioner Mortensen states that he is not prepared to move on the rezoning of properties labeled 3-10 tonight. Commissioner Tenge states that if the other property owners are in favor of this it should not be tabled.

Commissioner Grajek indicates that he understands that the property owner likes the flexibility of having one zoning with the option to have another, but he feels that they need to pick one. There is a benefit to the property owner by the commercial district. It could be short sided to leave this as Industrial. The property owner should research the GCD district to see what will be allowed.

Commissioner Tenge feels the change is of the greater good. Commissioner Mortensen challenges that and says he feels the Industrial zoning is more intense. Commercial Grajek feels the commercial zoning is better. Chairman Brown thinks that GCD is the appropriate zoning for this area at this time. He feels the industrial uses are no longer appropriate in that area and most of the property in the area is going commercial. Commissioner Tenge agrees with Chairman Brown. Commissioner Figurski indicates that she would keep parcels 3-10 in Industrial and Commissioner Olson agrees to keep them Industrial.

#### **Planning Commission disposition of petition**

#### **Recommendation regarding rezoning.**

**Moved by** Tenge, seconded by Grajek to recommend approval of the rezonings as presented by staff in the map dated May 9, 2008.

**The motion failed as follows: Ayes – Tenge, Brown, Grajek. Nays – Mortensen, Olson, Figurski.**

**Moved by** Mortensen, seconded by Figurski to recommend approval of the rezonings as presented by staff in the map dated May 9, 2008 excluding parcels 3-10 which shall remain industrial.

**The motion failed as follows: Ayes – Mortensen, Olson, Figurski. Nays – Tenge, Brown, Grajek.**

**Moved by** Grajek, seconded by Tenge to table the rezoning of Parcels 3-10 to next meeting of the Planning Commission scheduled for July 14, 2008 and to recommend approval of the remaining properties.

**The motion carried unanimously.**

#### **Administrative Business:**



**LSL Planning, Inc.**

Community Planning Consultants

May 30, 2008

Planning Commission  
Genoa Township  
2911 Dorr Road  
Brighton, Michigan 48116

<b>Subject:</b>	Amendments to the Official Zoning Map – Township initiated rezonings
<b>Applicant:</b>	Genoa Township 2911 Dorr Road Brighton, MI

Dear Planning Commissioners:

At the Township’s request, we have reviewed the proposed amendments to the Official Zoning Map. In total, there are 42 parcels located throughout the Township that are proposed for rezoning. The rationale behind the rezonings can be generally placed into one or more of the following categories:

- Correction of an inaccuracy in the current Zoning Map;
- Compatibility with adjacent uses;
- To remove multiple/split zoning designations for a property; and
- Consistency with adjacent zoning designations.

The vast majority (26 of the 42 parcels) are proposed for rezoning due to the fact that they are incorrectly zoned on the current map. The current Zoning Map was created on a new GIS parcel map with zoning boundaries from an old, hand-drawn zoning map. The old map did not accurately reflect new property divisions and parcel lines, which resulted in errors being carried forward to the new map. In the case of PUD’s the approved PUD site plans were referenced to determine what parcels were included or excluded from the original PUD zoning.

For the purposes of this review, the parcel numbers referenced correspond to the map prepared by the Township (dated May 9, 2008).

As described in Article 22 of the Zoning Ordinance, the process to amend the Township Zoning Map is as follows:

1. The Planning Commission holds a public hearing on the rezoning and makes a recommendation to the Township Board.
2. The Township Board considers the recommendations of the Planning Commissions and takes action to grant or deny the application for rezoning.

Section 22.04 of the Zoning Ordinance identifies the review criteria for an amendment to the Official Zoning Map. Such standards include consistency with the Master Plan, surrounding land uses and zoning designations, as well as compatibility with infrastructure and environmental conditions. While we have not written up each review standard for each proposed rezoning due to the number of parcels involved, we have conducted a thorough review and provide a more concise summary of each. In summary, the proposed amendments to the Official Zoning map are justified based upon the standards of the Zoning Ordinance.

<b>Parcel #1</b>	
<b>Location</b>	Southeast corner of Grand River Ave. and Chilson Rd.
<b>Current Zoning</b>	OSD – Office Service District
<b>Proposed Zoning</b>	GCD – General Commercial District
<b>Master Plan</b>	General Commercial
<b>Existing Land Use</b>	Office – permitted in both existing and proposed district
<b>Adjacent Uses/Zoning</b>	Consistent with GCD zoning of adjacent properties and surrounding commercial uses
<b>Other Factors</b>	This lot is a single isolated OSD parcel.

<b>Parcel #2</b>	
<b>Location</b>	South side of Grand River Ave. west of Dorr Rd.
<b>Current Zoning</b>	North portion: GCD – General Commercial District South portion: IND – Industrial Town Center Overlay District
<b>Proposed Zoning</b>	GCD – General Commercial District Town Center Overlay District
<b>Master Plan</b>	Mixed-Use Town Center
<b>Existing Land Use</b>	Banquet center – permitted in GCD
<b>Adjacent Uses/Zoning</b>	Consistent with GCD zoning of adjacent properties along Grand River Ave. and surrounding commercial uses
<b>Other Factors</b>	The majority of the site is within the GCD designation and it has frontage on Grand River. Removes multiple/split zoning designations from property.

<b>Parcels #3-10</b>	
<b>Location</b>	South side of Grand River Ave. at Euler Rd.
<b>Current Zoning</b>	IND – Industrial
<b>Proposed Zoning</b>	GCD – General Commercial District
<b>Master Plan</b>	General Commercial
<b>Existing Land Use</b>	Auto dealership, auto repair, mini-storage, retail, residential
<b>Adjacent Uses/Zoning</b>	Consistent with GCD and OSD zoning of adjacent parcels along Grand River. Character of area along Grand River Ave. is commercial in nature.
<b>Other Factors</b>	The mini-storage will become a nonconforming use. Residential would remain nonconforming.

<b>Parcel #11</b>	
<b>Location</b>	South side of Grand River Ave. east of Euler Rd.
<b>Current Zoning</b>	North portion: GCD – General Commercial District South portion: MHP – Mobile Home Park
<b>Proposed Zoning</b>	GCD – General Commercial District
<b>Master Plan</b>	General Commercial and Office
<b>Existing Land Use</b>	Church and pond
<b>Adjacent Uses/Zoning</b>	Consistent with proposed GCD zoning of adjacent parcels to the north and west.
<b>Other Factors</b>	Removes multiple/split zoning designations from property. Churches are allowed in GCD, not in MHP.

<b>Parcel #12, 16 and 17</b>	
<b>Location</b>	South/west side of Grand River Ave. west/north of Hacker Rd.
<b>Current Zoning</b>	OSD – Office Service District
<b>Proposed Zoning</b>	SR – Suburban Residential
<b>Master Plan</b>	Low Density Residential
<b>Existing Land Use</b>	Residential
<b>Adjacent Uses/Zoning</b>	SR – Suburban Residential
<b>Other Factors</b>	SR would make existing residential conforming uses. Correction to current Zoning Map.

<b>Parcel #13, 14 and 15</b>	
<b>Location</b>	South side of Collingwood Dr. west of Grand River Ave.
<b>Current Zoning</b>	OSD – Office Service District
<b>Proposed Zoning</b>	SR – Suburban Residential
<b>Master Plan</b>	Low Density Residential
<b>Existing Land Use</b>	Vacant
<b>Adjacent Uses/Zoning</b>	West and south: SR – Suburban Residential East and north: OSD – Office Service District
<b>Other Factors</b>	Correction to current Zoning Map.

<b>Parcel #18 and 19</b>	
<b>Location</b>	Grand Beach Dr. and Rink
<b>Current Zoning</b>	South portion: LRR – Lakeshore Resort Residential North portion: SR – Suburban Residential
<b>Proposed Zoning</b>	LRR
<b>Master Plan</b>	Low Density Residential
<b>Existing Land Use</b>	Residential
<b>Adjacent Uses/Zoning</b>	Parcels have lake frontage and LRR is consistent with adjacent zoning on the north and east side of the lake.
<b>Other Factors</b>	Removes multiple zoning designations from property.

<b>Parcel #20 and 21</b>	
<b>Location</b>	North side of Mapleton Dr. west of Stillmeadow Dr.
<b>Current Zoning</b>	LDR – Low Density Residential
<b>Proposed Zoning</b>	RPUD – Residential Planned Unit Development
<b>Master Plan</b>	Low Density Residential
<b>Existing Land Use</b>	Residential
<b>Adjacent Uses/Zoning</b>	RPUD – Residential Planned Unit Development
<b>Other Factors</b>	Correction to current Zoning Map – lots were approved as part of the RPUD site plan and rezoning. Removes isolated parcels of LDR zoning.

<b>Parcel #22 – 30</b>	
<b>Location</b>	Broadmoor Ct. north of St. Andrews Dr.
<b>Current Zoning</b>	CE – Country Estate
<b>Proposed Zoning</b>	MUPUD – Mixed Use Planned Unit Development
<b>Master Plan</b>	Large Lot Rural Residential
<b>Existing Land Use</b>	Residential
<b>Adjacent Uses/Zoning</b>	South: Mixed Use Planned Unit Development North, east and west: CE – Country Estate
<b>Other Factors</b>	Correction to current Zoning Map – lots were approved as part of the MUPUD site plan and rezoning.

<b>Parcel #31 and 32</b>	
<b>Location</b>	North side of Herbst Rd. east of Grand River Ave.
<b>Current Zoning</b>	RR – Rural Residential
<b>Proposed Zoning</b>	SR – Suburban Residential
<b>Master Plan</b>	Low Density Residential
<b>Existing Land Use</b>	Residential
<b>Adjacent Uses/Zoning</b>	South: SR - Suburban Residential North: MDR – Medium Density Residential
<b>Other Factors</b>	Correction to current Zoning Map. Consistent with zoning of adjacent parcels to the south. Consistent with current small lot sizes.

<b>Parcel #33</b>	
<b>Location</b>	West side of Clifford Rd. south of Conrad Rd.
<b>Current Zoning</b>	MUPUD – Mixed Use Planned Unit Development
<b>Proposed Zoning</b>	LDR - Low Density Residential
<b>Master Plan</b>	Low Density Residential
<b>Existing Land Use</b>	Residential
<b>Adjacent Uses/Zoning</b>	MUPUD – Mixed Use Planned Unit Development
<b>Other Factors</b>	This parcel had been excluded from the original Oak Point PUD and had not been rezoned to PUD. This is a correction to current Zoning Map.

<b>Parcel #34</b>	
<b>Location</b>	East side of Homestead Dr. on Crooked Lake
<b>Current Zoning</b>	MUPUD – Mixed Use Planned Unit Development
<b>Proposed Zoning</b>	LRR – Lakeshore Resort Residential
<b>Master Plan</b>	Small Lot Single Family Residential
<b>Existing Land Use</b>	Vacant wetland
<b>Adjacent Uses/Zoning</b>	South and west: MUPUD – Mixed Use Planned Unit Development North: LRR – Lakeshore Resort Residential
<b>Other Factors</b>	This parcel was not part of the original Oak Point PUD and had not been rezoned to PUD. This is a correction to current Zoning Map.

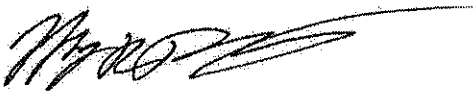
<b>Parcel #35-38</b>	
<b>Location</b>	West side of Homestead Dr. opposite Crooked Lake
<b>Current Zoning</b>	MUPUD – Mixed Use Planned Unit Development
<b>Proposed Zoning</b>	LRR – Lakeshore Resort Residential
<b>Master Plan</b>	Small Lot Single Family Residential
<b>Existing Land Use</b>	Residential
<b>Adjacent Uses/Zoning</b>	West and north: MUPUD – Mixed Use Planned Unit Development East and south: LRR – Lake Resort Residential
<b>Other Factors</b>	These parcels were not part of the original Oak Point PUD and had not been rezoned to PUD. This is a correction to current Zoning Map.

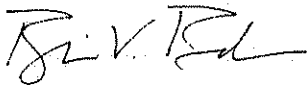
<b>Parcel #39-41</b>	
<b>Location</b>	Islands within Crooked Lake
<b>Current Zoning</b>	LDR – Low Density Residential
<b>Proposed Zoning</b>	LRR – Lake Resort Residential
<b>Master Plan</b>	Small Lot Single Family Residential
<b>Existing Land Use</b>	Vacant
<b>Adjacent Uses/Zoning</b>	Located within the lake. East and west shores: LRR – Lake Resort Residential South shore: MUPUD – Mixed Use Planned Unit Development
<b>Other Factors</b>	Proposed zoning is consistent with LRR zoning along the shoreline of the lake. District is designed to address lake property.

<b>Parcel #42</b>	
<b>Location</b>	East side of Bauer Rd. south of Brighton Rd.
<b>Current Zoning</b>	RPUD – Residential Planned Unit Development
<b>Proposed Zoning</b>	LDR - Low Density Residential
<b>Master Plan</b>	Low Density Residential
<b>Existing Land Use</b>	Residential
<b>Adjacent Uses/Zoning</b>	East: RPUD – Residential Planned Unit Development West: CE – Country Estate
<b>Other Factors</b>	This parcel had been excluded from the original Pine Lake PUD and had not been rezoned to PUD. This is a correction to current Zoning Map.

Should you have any questions concerning this matter, please do not hesitate to contact our office.

Sincerely,  
**LSL PLANNING, INC.**

  
 Jeffrey R. Purdy, AICP  
 Partner

  
 Brian V. Borden, AICP  
 Senior Planner

**GENOA CHARTER TOWNSHIP PLANNING COMMISSION  
NOTICE OF PUBLIC HEARING  
MONDAY, JUNE 9, 2008 -- 6:30 P.M.**

There will be a hearing for a proposed rezoning on Monday, June 9, 2008, at 6:30 p.m. at Genoa Charter Township Hall located at 2911 Dorr Road in Brighton, Michigan. The properties proposed for rezoning are as follows:

<u>Tax Code Number</u>	<u>Property Address</u>	<u>Existing Zoning</u>	<u>Proposed Zoning</u>
4711-06-200-025	2418 E. Grand River	OSD	GCD
4711-10-400-020	5768 E. Grand River	GCD/IND	GCD
4711-13-100-013	7219 W. Grand River	IND	GCD
4711-13-100-016	7288 W. Grand River	IND	GCD
4711-13-100-017	7286 W. Grand River	IND	GCD
4711-13-100-021	7269 W. Grand River	IND	GCD
4711-13-100-058	7208 W. Grand River	IND	GCD
4711-13-300-007	7356 W. Grand River	IND	GCD
4711-13-300-008	7372 W. Grand River	IND	GCD
4711-13-300-021	7300 W. Grand River	IND	GCD
4711-13-300-035	7372 W. Grand River	GCD/MHP	GCD
4711-13-400-003	7900 Collingwood	OSD	SR
4711-13-401-023	2725 Scottwood Place	OSD	SR
4711-13-401-024	2711 Scottwood Place	OSD	SR
4711-13-401-025	2701 Scottwood Place	OSD	SR
4711-13-401-045	vacant Collingwood	OSD	SR
4711-13-401-048	vacant Collingwood	OSD	SR
4711-14-201-048	6806 Grand Beach Drive	LRR/SR	LRR
4711-14-201-049	6812 Rink	LRR/SR	LRR
4711-21-203-031	4521 Mapleton Drive	LDR	RPUD
4711-21-203-032	vacant Mapleton Drive	LDR	RPUD
4711-21-301-001	4029 Broadmoor Court	CE	MUPUD
4711-21-301-003	4026 Broadmoor Court	CE	MUPUD
4711-21-301-004	4000 Broadmoor Court	CE	MUPUD
4711-21-301-005	vacant Broadmoor Court	CE	MUPUD
4711-21-301-006	3948 Broadmoor Court	CE	MUPUD
4711-21-301-007	3947 Broadmoor Court	CE	MUPUD
4711-21-301-008	vacant Broadmoor Court	CE	MUPUD
4711-21-301-009	3979 Broadmoor Court	CE	MUPUD
4711-21-301-010	4015 Broadmoor Court	CE	MUPUD
4711-24-200-078	7559 Herbst Road	RR	SR
4711-24-200-079	7545 Herbst Road	RR	SR
4711-27-300-002	4598 Clifford Road	MUPUD	LDR
4711-28-100-014	vacant	MUPUD	LRR
4711-28-100-023	4151 Rosecreek Lane	MUPUD	LRR
4711-28-100-024	4123 Rosecreek Lane	MUPUD	LRR
4711-28-100-025	4095 Rosecreek Lane	MUPUD	LRR
4711-28-100-026	4067 Rosecreek Lane	MUPUD	LRR
4711-28-200-001	4501 Oak Pointe Drive	LDR	LRR
4711-28-200-002	Island	LDR	LRR
4711-28-200-003	Island	LDR	LRR
4711-36-300-009	5981 Bauer Road	RPUD	LDR

If you have any questions in this regard, please be present at the public hearing noted above.

Written comments should be addressed to the Genoa Charter Township Planning Commission. All materials relating to the request are available for public inspection during regular business hours (9am to 5pm, Monday through Friday) at the Genoa Charter Township Hall located at 2911 Dorr Road, Brighton, Michigan prior to the hearing.



**BOARD OF TRUSTEES  
GENOA CHARTER TOWNSHIP,  
LIVINGSTON COUNTY, MICHIGAN**

**NOTICE OF PUBLIC HEARING ON PROPOSED ZONING MAP AMENDMENT  
SEPTEMBER 2, 2008**

Pursuant to Michigan Public Act 359 of 1947, (the Charter Township Act), notice is hereby given that the Genoa Charter Township Board will be considering an ordinance to amend the zoning map of the Charter Township of Genoa at 6:30 p.m. on Tuesday, September 2, 2008. The properties proposed for rezoning are listed in the following table:

No.	Tax Code Number	Existing Zoning	Proposed Zoning	No.	Tax Code Number	Existing Zoning	Proposed Zoning
1	11-06-200-025	OSD	GCD	22	11-21-301-001	CE	MUPUD
2	11-10-400-020	GCD/IND	GCD	23	11-21-301-003	CE	MUPUD
3	11-13-100-013	IND	GCD	24	11-21-301-004	CE	MUPUD
4	11-13-100-016	IND	GCD	25	11-21-301-005	CE	MUPUD
5	11-13-100-017	IND	GCD	26	11-21-301-006	CE	MUPUD
6	11-13-100-021	IND	GCD	27	11-21-301-007	CE	MUPUD
7	11-13-100-058	IND	GCD	28	11-21-301-008	CE	MUPUD
8	11-13-300-007	IND	GCD	29	11-21-301-009	CE	MUPUD
9	11-13-300-008	IND	GCD	30	11-21-301-010	CE	MUPUD
10	11-13-300-021	IND	GCD	31	11-24-200-078	RR	SR
11	11-13-300-035	GCD/MHP	GCD	32	11-24-200-079	RR	SR
12	11-13-400-003	OSD	SR	33	11-27-300-002	MUPUD	LDR
13	11-13-401-023	OSD	SR	34	11-28-100-014	MUPUD	LRR
14	11-13-401-024	OSD	SR	35	11-28-100-023	MUPUD	LRR
15	11-13-401-025	OSD	SR	36	11-28-100-024	MUPUD	LRR
16	11-13-401-045	OSD	SR	37	11-28-100-025	MUPUD	LRR
17	11-13-401-048	OSD	SR	38	11-28-100-026	MUPUD	LRR
18	11-14-201-048	LRR/SR	LRR	39	11-28-200-001	LDR	LRR
19	11-14-201-049	LRR/SR	LRR	40	11-28-200-002	LDR	LRR
20	11-21-203-031	LDR	RPUD	41	11-28-200-003	LDR	LRR
21	11-21-203-032	LDR	RPUD	42	11-36-300-009	RPUD	LDR

The complete text of the proposed ordinance is available for public inspection at the Township Hall located at 2911 Dorr Road, Brighton, Michigan 48116, Monday through Friday from 9:00a.m. to 5:00p.m.

Polly Skolarus  
Township Clerk

(Press/Argus August 29, 2008)

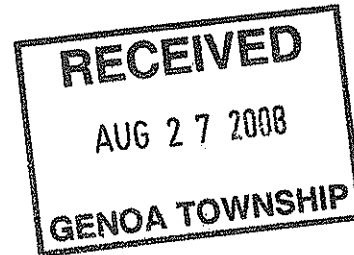


# Livingston County Department of Planning

Division of  
HAZARD MITIGATION • PLANNING & MANAGEMENT RESEARCH • MAPPING SERVICES

William D. Wagoner  
CM, C.A.M.  
Director

August 20, 2008



Kathleen J. Kline-Hudson  
AICP, PEM  
Assistant Director

Genoa Township Board of Trustees  
c/o Paulette Skolarus, Clerk  
Genoa Township Hall  
2911 Dorr Road  
Brighton, MI 48116

Nancy Vorhoff  
Administrative Specialist

**Re: Planning Commission Review of Rezoning Z-29-08 and Z-30-08**

Dear Board Members:

Robert A. Stanford  
AICP, PEM  
Principal Planner

The Livingston County Planning Commission met on Wednesday, August 20, 2008, and reviewed the Rezoning request.

Scott Barb  
Principal Planner

**Z-29-08 Approval**

**Z-30-08 Approval**

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,

William D. Wagoner

Department Information

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

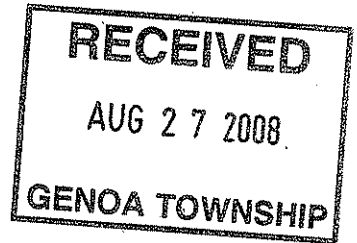
Enclosures

(517) 546-7555  
Fax (517) 552-2347

c: Don Pobuda, Chair Genoa Township Planning Commission  
Kelly VanMarter, Planning Coordinator, Genoa Township

Web Site  
co.livingston.mi.us

LIVINGSTON COUNTY PLANNING COMMISSION  
MINUTES  
AUGUST 20, 2008  
304 E. Grand River Ave., Howell, Michigan, 7:30 p.m.



**COMMISSIONERS PRESENT:** Reid Krinock (Chair), Bethany Hammond (Vice-Chair), Sylvia Kennedy-Carrasco, James Sparks, Bill Anderson, Jeanne Clum  
**COMMISSIONERS ABSENT:** Brian Prokuda  
**STAFF PRESENT:** Kathleen Kline-Hudson, Scott Barb, Robert Stanford, Nancy Vorhoff  
**OTHERS PRESENT:**

1. **CALL TO ORDER** Meeting was called to order by Reid Krinock, (Chair) at 7:30 p.m.
2. **PLEDGE OF ALLEGIANCE**
3. **APPROVAL OF MINUTES DATED JULY 16, 2008**

IT WAS MOVED BY COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER HAMMOND TO APPROVE THE JULY 20, 2008 MINUTES.  
**All in favor, motion passed. 6-0**

4. **APPROVAL OF AGENDA**

IT WAS MOVED BY COMMISSIONER SPARKS, SECONDED BY COMMISSIONER CLUM TO APPROVE THE AGENDA DATED AUGUST 20, 2008.  
**All in favor, motion passed. 6-0**

5. **CALL TO THE PUBLIC** – There was no response.
6. **ZONING REVIEWS**

A. **Z-29-08 GENOA TOWNSHIP. REZONING, UPDATE TO OFFICIAL TOWNSHIP ZONING MAP/CHANGING THE CURRENT ZONING OF 42 PARCELS.**

**Current Zoning** OSD-Office Service District, GCD-General Commercial District, IND-Industrial District, MPH-Manufactured Housing Park, LRR-Lakeshore Resort Residential, SR-Suburban Residential, CE-Country Estate, RR-Rural Residential, MUPD- Mixed Use Planned Unit Development, RPUD-Residential Planned Unit Development

**Proposed Zoning** GCD General Commercial District, SR-Suburban Residential, LRR-Lakeshore Resort Residential, RPUD-Residential Planned Unit Development, MUPUD-Mixed Use Planned Unit Development, LDR-Low Density Residential

**Proponents** Genoa Charter Township/Various Owners

**Township Master Plan:** The Future Land Use map of Genoa Charter Township designates the sites as: Mixed-Use Town Center, Industrial, and General Commercial along the Grand River corridor;

draft

Low Density Residential (1acre), and Small Lot Single Family Residential (2-3 units per acre) for the remaining residential areas.

**County Comprehensive Plan:** The Livingston County Comprehensive Plan (as amended) designates the majority of Genoa Township as **Residential** with Grand River Avenue between Howell and Brighton noted as a Growth Corridor. The Plan describes these areas in the following manner:

*Residential areas are located mainly in the southeast quadrant of the county. Residential areas are characterized by fairly dense residential, commercial and to some extent industrial development, although less dense and intense than uses found in the cities and villages. Residential areas are not without their rural character and scenic vistas. However, few agricultural lands in Residential areas are expected to exist twenty years from now. New residential developments in these areas should be compact and make the best use of sewer and water if it is available. Cluster projects should be utilized when appropriate to preserve open space and scenic vistas. Projects such as planned unit developments that are not feasible in Cities/Villages or Primary Growth areas because of parcel size or similar restricts should be channeled into Residential areas. Limited commercial and industrial growth is appropriate*

*Development along the Howell-Brighton Growth Corridor has expanded considerably in the last decade and will continue to develop over the life of the Livingston County Comprehensive Plan. The uses along the corridor are mixed: commercial uses which include everything from mom-and-pop convenience stores to big-box retailers; office and service establishments; a variety of industrial uses; and recently, fairly dense housing developments such as attached condominiums and apartment complexes. Established residential neighborhoods are also found along the corridor. While the corridor could be interpreted as a logical extension of the two cities because of the infrastructure and types of uses present, the corridor could also be considered suburban sprawl that generates congestion and competes with traditional downtowns.*

**Township Planning Commission Recommendation and Public Comments:** The Genoa Charter Township Planning Commission recommended APPROVAL of this REZONING request in two segments at their June 9, 2008 and July 14, 2008 Planning Commission meetings. There were a variety of public comments regarding the request at both Planning Commission public hearings. Public comments regarded: PUD zoning; zoning restrictions; taxes; minimum lot sizes; future lot splits; permitted uses; and permits.

**Staff Recommendation: APPROVAL.** Based on the information provided, the proposed 42 rezonings appear to be reasonable and appropriate given their surrounding zoning, current land use and designated future land use. Staff urges the Genoa Township Planning Commission to consider the additional rezonings and/or adjustments to the Genoa Township Master Plan suggested in this review.

**Commission Discussion:** Commissioner Kennedy- Carrasco commented that she had received a telephone call from an area resident concerned that their property is not a part of the Oak Pointe Development. This resident would like the zoning to clearly reflect that. Assistant Director Kline-Hudson said this was one of the purposes of this rezoning. Commissioner Clum said this was a lot of "Good Housekeeping" and wondered about the taxation. Kline-Hudson remarked that taxation is based on usage not zoning. Commissioner Sparks asked about zoning parcel # 33, and if it is in the middle of MUPD, not on the edge. Kline-Hudson said it was not spot zoning.

**Public Comment:** - No public comment

**Commissioner Action:** IT WAS MOVED BY COMMISSIONER SPARKS, TO RECOMMEND APPROVAL, SECONDED BY COMMISSIONER ANDERSON.

All in favor, motion passed. 6-0

draft

LIVINGSTON COUNTY PLANNING DEPARTMENT – ZONING REVIEW

**RECEIVED**

AUG 27 2008

<p><b>CASE NUMBER:</b> Z-29-08</p>	<p><b>LOCATION:</b> Genoa Township  <b>SECTION NUMBERS:</b> 6,10,13,14,21,24,27,28,36  <b>TOTAL ACREAGE:</b> 42 properties totaling approximately 127 acres</p>	<p><b>APPLICANT/OWNER:</b>                  Genoa Charter Township/various owners                  (see attached)  <b>GENOA TOWNSHIP</b></p>
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<p><b><u>CURRENT ZONING:</u></b></p> <p>OSD – Office Service District                  GCD – General Commercial District                  IND – Industrial District                  MHP – Manufactured Housing Park                  LRR - Lakeshore Resort Residential                  SR – Suburban Residential                  LDR – Low Density Residential                  CE – Country Estate                  RR – Rural Residential                  MUPUD – Mixed Use Planned Unit Development                  RPUD – Residential Planned Unit Development</p>	<p><b><u>REQUESTED ZONING</u></b></p> <p>GCD – General Commercial District                  SR – Suburban Residential                  LRR – Lakeshore Resort Residential                  RPUD – Residential Planned Unit Development                  MUPUD – Mixed Use Planned Unit Development                  LDR – Low Density Residential</p>
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<p><b><u>CURRENT ZONING MAP:</u></b></p> <p>See Attached Map</p>	<p><b><u>ESSENTIAL FACILITIES:</u></b></p> <p>SANITARY SEWER: Public Sanitary Sewer</p> <p>WATER SUPPLY: Public Water</p> <p>ACCESS ROAD(S):</p> <p>Grand River Avenue (11), Collingwood (3), Scottwood Place (3), Grand Beach Drive (1), Rink (1), Mapleton Drive (2), Broadmoor Court (9), Herbst Road (2), Clifford Road (1), Rosecreek Lane (4) Oak Pointe Drive (1) and Bauer Road (1), No access road (3).</p>
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**TOWNSHIP PLANNING COMMISSION RECOMMENDATION AND PUBLIC COMMENTS:**

The Genoa Charter Township Planning Commission recommended **APPROVAL** of this **REZONING** request in two segments at their June 9, 2008 and July 14, 2008 Planning Commission meetings. There were a variety of public comments regarding the request at both Planning Commission public hearings. Public comments regarded: PUD zoning; zoning restrictions; taxes; minimum lot sizes; future lot splits; permitted uses; and permits.

**TOWNSHIP MASTER PLAN:**

The Future Land Use map of Genoa Charter Township designates the sites as: Mixed-Use Town Center, Industrial, and General Commercial along the Grand River corridor; Low Density Residential (1 acre), and Small Lot Single Family Residential (2-3 units per acre) for the remaining residential areas.

ANALYSIS BY: Kathleen Kline-Hudson	DATE: August 12, 2008	CASE NUMBER: Z-29-08	PAGE: 2
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**COUNTY COMPREHENSIVE PLAN:**

The Livingston County Comprehensive Plan (as amended) designates the majority of Genoa Township as **Residential** with Grand River Avenue between Howell and Brighton noted as a Growth Corridor. The Plan describes these areas in the following manner:

*Residential areas are located mainly in the southeast quadrant of the county. Residential areas are characterized by fairly dense residential, commercial and to some extent industrial development, although less dense and intense than uses found in the cities and villages. Residential areas are not without their rural character and scenic vistas. However, few agricultural lands in Residential areas are expected to exist twenty years from now. New residential developments in these areas should be compact and make the best use of sewer and water if it is available. Cluster projects should be utilized when appropriate to preserve open space and scenic vistas. Projects such as planned unit developments that are not feasible in Cities/Villages or Primary Growth areas because of parcel size or similar restricts should be channeled into Residential areas. Limited commercial and industrial growth is appropriate*

*Development along the Howell-Brighton Growth Corridor has expanded considerably in the last decade and will continue to develop over the life of the Livingston County Comprehensive Plan. The uses along the corridor are mixed: commercial uses which include everything from mom-and-pop convenience stores to big-box retailers; office and service establishments; a variety of industrial uses; and recently, fairly dense housing developments such as attached condominiums and apartment complexes. Established residential neighborhoods are also found along the corridor. While the corridor could be interpreted as a logical extension of the two cities because of the infrastructure and types of uses present, the corridor could also be considered suburban sprawl that generates congestion and competes with traditional downtowns.*

**COUNTY PLANNING STAFF COMMENTS:**

Genoa Charter Township is initiating these changes to their official township zoning map for the following reasons: the zoning is inconsistent with adjacent zoning; a parcel contains split zoning; there has been a change in character in a portion of the township; and a parcel was incorrectly zoned on the existing map. The proposed rezonings can be lumped into the following eight (8) general areas:

- **Grand River and Chilson intersection** – This area consists of one property at the southeast corner of Grand River and Chilson Road. The existing zoning is OSD Office Service District and the proposed zoning is GCD General Commercial District. The reason for change is for consistency with adjacent GCD zoning; the property is currently a spot zone. The current use of this property is Insurance Sales which is a permitted use in a GCD zone. The minimum lot size of one (1) acre is the same for the OSD and GCD zoning districts. The ½ acre property is a nonconforming minimum lot size in both zoning districts. This proposed rezoning is compatible with the General Commercial Future Land Use designation for this property.
- **Grand River/Lake Chemung area** – This area also consists of one property. It is the location of Crystal Gardens banquet center (see Photo #2). The existing zoning is a split between GCD General Commercial District and IND Industrial District zoning (with a Town Center overlay), and the Township would like to make it all GCD. Banquet Halls are a permitted use in the GCD. The minimum lot size of one (1) acre is the same for the GCD and IND zoning districts, and the over seven (7) acre property well exceeds these minimums. The Future Land Use designation of this property is also split between Mixed-Use Town Center and Industrial. The Township may wish to tweak this area of their Master Plan. Additionally, Staff questions why the 10 acre property adjacent to the west was not also rezoned for the same split zoning reasons.

**COUNTY PLANNING STAFF COMMENTS (continued):**

- **Grand Beach Lake area** - This area consists of two properties surrounding Grand Beach Lake that contain split zoning. The existing zoning is LLR Lakeshore Resort Residential and SR Suburban Residential, and the Township would like to change the zoning to LLR on the entirety of both properties. LLR zoning is currently located around the north and eastern perimeters of the lake where these parcels are located. The current use of the properties is residential and they are sited surrounding a lake, which is the permitted use and intent of the LLR zone. The minimum lot sizes of each of these parcels is well over a ½ acre in size so they should be compatible with the various minimum lot sizes listed in the LLR District. These proposed rezonings are fairly compatible with the Low Density Residential (1 acre) Future Land Use designations for the properties.
- **Grand River/Euler Road area** – Nine properties clustered in this area on both the north and south sides of Grand River, are proposed to be rezoned to GCD General Commercial District in order to better fit the character of the area and to remove split zoning. Eight of these properties are currently zoned IND Industrial District except for one (1) property that is split zoned between GCD and MHP Manufactured Housing Park. The character and current use of the parcels is primarily commercial including car sales and storage facilities. A couple of the parcels are non-commercial in use such as a home and a church (see Photo #1) however, churches are a permitted use in the GCD. The minimum lot size of one (1) acre is the same for the IND and GCD zoning districts. Six (6) of the properties are conforming in size, while three (3) properties that are under 1 acre in size will remain non-conforming. These proposed rezonings are compatible with the General Commercial Future Land Use designation noted for the properties on the south side of Grand River, and are less compatible with the Planned Industrial Future Land Use designation noted for the two properties on the north side of Grand River.
- **Grand River/eastern Township boundary** – Eight properties are located in this area on the south side of Grand River, north of Herbst Road. It is proposed that all eight properties be rezoned to SR Suburban Residential because they were incorrectly zoned. Six of the properties are currently zoned OSD Office Service District and two of the properties are currently zoned RR Rural Residential. The current character and use of the properties is residential and the zoning of this area is primarily SR. The minimum lot size of six of the properties is consistent with the ½ acre minimum lot size of the SR District; two properties located on Collingwood would remain non-conforming. These proposed rezonings are fairly compatible with the Low Density Residential (1 acre) Future Land Use designations for the properties.
- **Crooked Lake area** – Eighteen properties are located in the area surrounding Crooked Lake. The Township states that these properties were either incorrectly zoned on the existing map or they are islands in Little Crooked Lake that are inconsistent with adjacent zoning. It is proposed that the zoning of these properties be changed in the following ways: eight (8) of these properties be rezoned from MUPUD Mixed Use Planned Unit Development or LDR Low Density Residential to LLR Lakeshore Resort Residential; one property be rezoned from MUPUD Mixed Use Planned Unit Development to LDR Low Density Residential; nine (9) properties be rezoned from CE Country Estate to MUPUD Mixed Use Planned Unit Development. The zoning of each of these properties is to be corrected to reflect that the property IS a part of the Oak Pointe MUPUD (like Broadmoor Court, see Photos #3 and #4) or it is NOT and is considered an exception, like the three islands in Little Crooked Lake. These proposed rezonings are fairly compatible with the Low Density Residential (1 acre) and the Small Lot Single Family Residential (2-3 units per acre) Future Land Use designations for the properties. The only proposed rezonings that appear to be inconsistent with the future land use designation are those located on Broadmoor Court. The Future Land Use designation is Large Lot Rural Residential, and these lots are a part of Oak Pointe which better fits the Small Lot Single Family Residential Future Land Use designation.

ANALYSIS BY: Kathleen Kline-Hudson	DATE: August 12, 2008	CASE NUMBER: Z-29-08	PAGE: 4
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**COUNTY PLANNING STAFF COMMENTS (continued):**

- **North Shore Woods** - It is proposed that two properties be rezoned in this area from LDR Low Density Residential to RPUD Residential Planned Unit Development due to the property being incorrectly zoned on the existing map. These two properties are supposed to be included in the North Shore Woods RPUD. The proposed rezonings are compatible with the Low Density Residential (1 acre) Future Land Use designation for these properties.
  
  - **Brighton Lake area** - It is proposed that one property be rezoned in this area from RPUD Residential Planned Unit Development to LDR Low Density Residential due to the property being incorrectly zoned on the existing map. This 4.7 acre property is not a part of the Pine Creek Ridge Residential Planned Unit Development that nearly surrounds it. The property exceeds the minimum lot size of the LDR (1 acre) district, but it is too small for the CE Country Estate district across Bauer Road, therefore, the new rezoning would serve as a transition between the surrounding CE and RPUD districts. The proposed rezoning is compatible with Low Density Residential (1 acre) Future Land Use designations for this property.
- County planning staff received a map of the proposed rezonings and minutes from the public hearings regarding this case. The information that the department is still not receiving, is a completed rezoning amendment form that demonstrates whether or not public notice requirements are being met. County planning staff have ethical concerns regarding the requirement that professional planners should provide full, clear and accurate information on planning issues to citizens and governmental decision-makers. We believe that the lack of information received from Genoa Charter Township with zoning map and text amendments, inhibits the ability of staff to conduct a comprehensive review and limits the opportunity for citizens to have a meaningful impact on the development of plans and programs.*

**STAFF RECOMMENDATION:**

**APPROVAL.** Based on the information provided, the proposed 42 rezonings appear to be reasonable and appropriate given their surrounding zoning, current land use and designated future land use. Staff urges the Genoa Township Planning Commission to consider the additional rezonings and/or adjustments to the Genoa Township Master Plan suggested in this review.



# Memo

**To:** Genoa Township Board  
**From:** Kelly VanMarter, Planning Director  
**CC:** Michael Archinal, Manager  
**Date:** 8/28/2008  
**Re:** September 2, 2008 Board Agenda Item #9

---

**Agenda Item:** Request for approval and adoption of Ordinance Number Z-08-02 to amend the Zoning Map of Genoa Charter Township by rezoning properties located at 4489 and 4495 Oak Pointe Drive (Parcels 4711-28-400-002 and 4711-28-400-003) from MUPUD to LRR, petitioned by Genoa Charter Township.

**Planning Commission Action:** Recommendation for approval. Motions carried unanimously.

**Livingston County Planning Commission Action:** Recommendation for approval (6-0).

**Recommendation for Township Board Action:** Staff recommends approval of the proposed rezoning.

**Suggested Motion:**

Moved by \_\_\_\_\_, Supported by \_\_\_\_\_ to approve and adopt Ordinance Number Z-08-02 to amend the zoning map by rezoning parcels 4711-28-400-002 and 4711-28-400-003 from MUPUD to LRR. The rezoning is granted because it meets the criteria of Section 22.04 of the Genoa Charter Township Zoning Ordinance.

**ORDINANCE NO. Z-08-02**

**AN ORDINANCE ENTITLED  
AN ORDINANCE TO AMEND THE ZONING MAP OF  
THE CHARTER TOWNSHIP OF GENOA BY REZONING PROPERTY  
LOCATED AT 4489 AND 4495 OAK POINTE DRIVE (PARCELS 4711-28-400-  
002 AND 4711-28-400-003) FROM MIXED USE PLANNED UNIT  
DEVELOPMENT (MUPUD) TO LAKESHORE RESORT RESIDENTIAL (LRR)**

GENOA CHARTER TOWNSHIP  
LIVINGSTON COUNTY, MICHIGAN

**THE CHARTER TOWNSHIP OF GENOA HEREBY ORDAINS that the Zoning Map shall be amended as follows:**

Real properties situated on the east side of Oak Pointe Drive between Lakeshore Court and Muirfield and more particularly described as follows:

**See legal description attachment "A", incorporated herein by reference.**

Shall be rezoned from Mixed Use Planned Unit Development (MUPUD) to Lakeshore Resort Residential (LRR) Classification.

The Zoning Map, as incorporated by reference in the Charter Township of Genoa's Zoning Ordinance, is hereby amended by the rezoning of the aforescribed parcels of real property from MUPUD to LRR.

**Repealor:** All ordinances or parts of Ordinances in conflict herewith are repealed.

**Severability:** Should any section, subsection, paragraph, sentence, clause or word of this Ordinance be held invalid for any reason, such decisions shall not affect the validity of the remaining portions of the Ordinance.

**Savings:** This amendatory ordinance shall not affect violations of the Zoning Ordinance or other ordinance existing prior to the effective date of this Ordinance and such violations shall be governed and shall continue to be separately punishable to the full extent of the law under the provisions of such ordinance at the time the violation was committed.

**Effective Date:** This Ordinance shall be effective upon publication in a newspaper of general circulation as required by law.

On the motion to adopt the Ordinance the following vote was recorded:

**Yeas:**

**Nays:**

**Absent:**

I hereby approve the adoption of the foregoing Ordinance this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

---

Paulette Skolarus  
Township Clerk

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Gary McCririe  
Township Supervisor

Township Board First Reading: August 18, 2008  
Date of Publication of Proposed Ordinance: August 29, 2008  
Township Board Second Reading and Adoption:  
Date of Publication of Ordinance Adoption:  
Effective Date:

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**ATTACHMENT A  
LEGAL DESCRIPTION**

**Parcel Number:** 47-11-28-400-002  
**Owner's Name:** Robert and Judith McDonald  
**Property Address:** 4489 Oak Pointe Drive, Brighton, MI 48116

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**Legal Description:**

SEC 28 T2N R5E BEG 123.42 FT N 22\*30' E FROM CEN OF SEC, BEING 1320 FT E FROM S 1/8 COR OF NW 1/4, TH N 32\*30'E 159.39 FT TO SHORE OF LITTLE CROOKED LK, TH N 13\*30' W 76.56 FT, TH N16\*20'W 34.98 FT, N 56\*W 10 FT, TH S 43\*30'52" W 135.07 FT, TH S 34\*04'50" W 100 FT, TH S 55\*55'10" E 120 FT TO BEG. .52 AC

**Parcel Number:** 47-11-28-400-003  
**Owner's Name:** Glenn & Bonnie Price  
**Property Address:** 4495 Oak Pointe Drive, Brighton, MI 48116

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**Legal Description:**

SEC 28 T2N R5E BEG AT A POINT 123.42 FT N22\*E AND 120 FT N55\*W OF POINT ON THE EAST AND WEST 1/4 LINE 1320 FT EAST OF THE SOUTH 1/8 POST OF NW 1/4 OF SEC 27 TH N34\*E 100 FT TH N43\*E 135.07 FT TO SHORE OF LITTLE CROOKED LAKE TH ALNG SHORELINE, THE TRAVERSE LINE WHICH BEARS N56\*W 130.25 FT AND S87\*W 46.86 FT TO A POINT TH S46\*W 64.02 FT TH S36\*W 142.89 FT TH S55\*E TO POB CONT. 0.87 AC M/L CORRECTION JULY 1994

**GENOA CHARTER TOWNSHIP**  
**Public Hearing and Regular Meeting**  
**August 18<sup>th</sup>, 2008**  
**6:30 p.m.**

**MINUTES**

Trustee Todd Smith called the meeting of the Genoa Charter Township Board to order at 6:30 p.m. in place of Gary McCririe. The Pledge of Allegiance was then said. The following persons were present constituting a quorum for the transaction of business: Paulette Skolarus, Robin Hunt, Todd Smith, Jean Ledford, Steve Wildman and Jim Mortensen. Also present were Township Manager Michael Archinal and approximately twenty persons in the audience.

A Call to the Public was made with no response.

**Approval of Consent Agenda:**

Moved by Ledford, supported by Mortensen, to approve all items listed under the consent agenda as presented. The motion carried unanimously.

**1. Payment of Bills**

**2. Request to approve minutes: 8-4-08**

**3. Request to authorize a publication and set public hearing for September 2, 2008 at 6:30 p.m. for an update to the Genoa Charter Township Zoning Map by changing the current zoning of 34 parcels, petitioned by Genoa Charter Township.**

**4. Request to authorize a publication and set public hearing for September 2, 2008 at 6:30 p.m. for a request to rezone parcels 11-28-400-004 and 11-28-400-003 from MUPUD to LRR, petitioned by Genoa Charter Township.**

**5. Consideration of a request for approval of the Assessor's affidavit of the 2008 Millage levies for Genoa Charter Township, establishing the Millage levy at 0.8146 as request by Debra Rojewski.**

**Approval of Regular Agenda:**

Moved by Hunt, supported by Mortensen, to approve for action all items listed under the regular agenda as submitted. The motion carried unanimously.

**6. Public Hearing on the Round Lake Special Assessment District for Aquatic Weed Control.**

Mr. Jeff Geist, representing Round Lake Homeowners, addressed the board. Geist – A recent survey of the lake determined that Round Lake does not require sonar or chemical

**Motion** by James Mortensen to recommend to the Township Board the rezoning of the properties identified as parcels 3-10 in the LSL letter of 5/30/08 from industrial commercial, finding it is consistent with the Master Plan and meets the criteria of zoning in ordinance number 22.04. Support by Chris Grajek. **Motion carried unanimously.**

**OPEN PUBLIC HEARING # 2... Review of request to rezone parcels 11-28-400-004 & 11-28-400-003 from MUPUD to LRR, petitioned by Genoa Charter Township.**

Chairman Brown discusses the nature of the request. It is from mixed use to lakeshore resort residential. There was an error many years ago when Burroughs Farms was being sold to Oak Pointe. This request would correct that oversight.

Kelly VanMarter indicates that Mr. MacDonald was at last month's meeting and she exchanged emails with Mr. Price. She has heard nothing further, so assumes that their concerns are eased.

**Planning Commission disposition of petition**

A. Recommendation regarding rezoning

**Motion** by James Mortensen to recommend to the Township Board approval of rezoning the properties bearing tax ID numbers: 11-28-400-002 and 003 from MUPUD to LRR. This motion is made to correct an obvious error in zoning and is consistent with the existing zoning and Master Plan. Support by Chris Grajek. **Motion carried unanimously.**

**OPEN PUBLIC HEARING #3... Review of a special use application, impact assessment and sketch plan for a proposed worship facility to occupy 7181 Grand River, Brighton, Dec. 13, petitioned by Lindhout Associates.**

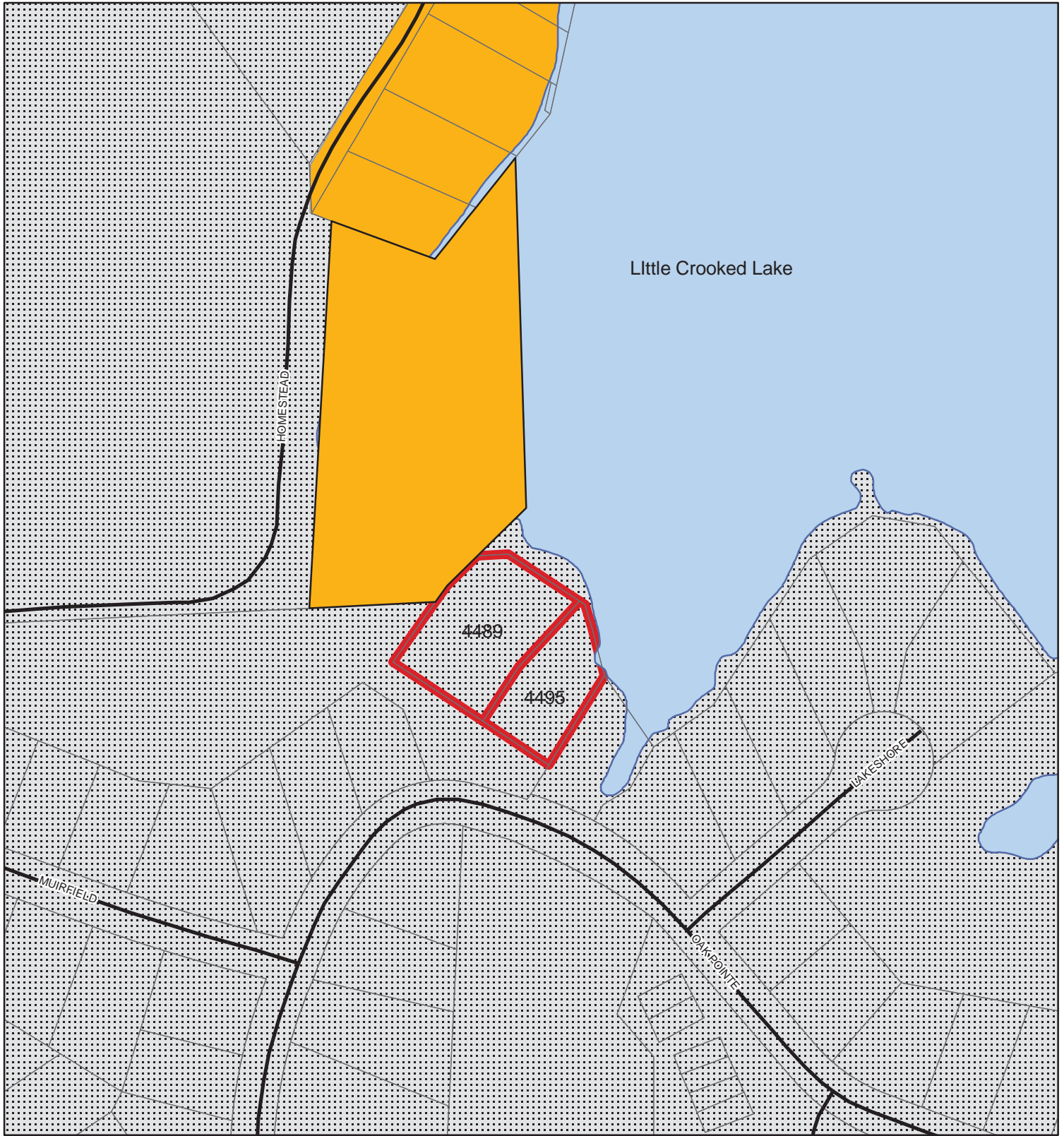
Architect, Piet Lindhout, Pastor Jeff Waterman and Holly Osterehout, who is an intern with Lindhout & Associates addressed the Planning Commission regarding this application. The proposed church is a daughter church to Cornerstone Church in Brighton.

Piet Lindhout addresses the LSL letter. The parking calculations seem to be correct. He supports the barrier-free area next to the church. Mr. Lindhout addresses the sidewalk request. He feels it is unfair to require this small tenant to provide sidewalks to a large complex where no other tenant is required to install the sidewalk.

James Mortensen indicates that this situation is unusual. He is willing to waive the sidewalk requirement.

# Township Initiated Rezoning

## July 14, 2008



### Legend



Proposed Rezoning to LRR



**BOARD OF TRUSTEES  
GENOA CHARTER TOWNSHIP,  
LIVINGSTON COUNTY, MICHIGAN**

**NOTICE OF PUBLIC HEARING ON PROPOSED ZONING MAP AMENDMENT  
SEPTEMBER 2, 2008**

Pursuant to Michigan Public Act 359 of 1947, (the Charter Township Act), notice is hereby given that the Genoa Charter Township Board will be considering an ordinance to amend the zoning map of the Charter Township of Genoa at 6:30 p.m. on Tuesday, September 2, 2008. The properties proposed for rezoning are parcels 4711-28-400-004 and 4711-28-400-003 located east of Oak Pointe Drive north of Lakeshore Court and are requested to be rezoned from MUPUD to LRR.

The complete text of the proposed ordinance is available for public inspection at the Township Hall located at 2911 Dorr Road, Brighton, Michigan 48116, Monday through Friday from 9:00a.m. to 5:00p.m.

Polly Skolarus  
Township Clerk

(Press/Argus August 29, 2008)

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# Genoa Township

2911 Dorr Road • Brighton, Michigan 48116 • (810) 227-5225 • Fax (810) 227-3420 • Email: [www.genoa.org](http://www.genoa.org)

June 26, 2008

## TO WHOM IT MAY CONCERN:

There will be a hearing for a proposed rezoning in your general vicinity on Monday, July 14<sup>th</sup>, 2008, at 6:30 p.m. at the Genoa Charter Township Hall, 2911 Dorr Road, Brighton, MI.

The request is to rezone the properties located at 4495 Oak Pointe Drive (4711-28-400-003) and 4489 Oak Pointe Drive (4711-28-400-002) from MUPUD (Mixed Used Planned Unit Development) to LRR (Lakeshore Resort Residential). The zoning change has been petitioned by Genoa Charter Township to correct an error on the zoning map.

If you have any questions in this regard, please be present at the public hearing noted above. Written comments should be addressed to the Genoa Charter Township Planning Commission. All materials relating to the request are available for public inspection at the Genoa Township Hall prior to the hearing.

Sincerely,

Kelly VanMarter  
Genoa Township Planning Director

KKV/ar

**Supervisor**  
Gary T. McCririe

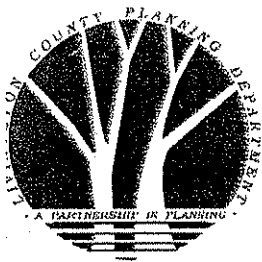
**Clerk**  
Paulette A. Skolarus

**Treasurer**  
Robin L. Hunt

**Manager**  
Michael C. Archinal

### Trustees

H. James Mortensen • Jean W. Ledford • Todd W. Smith • Steven Wildman

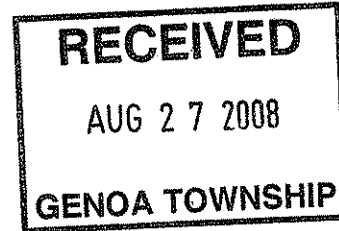


# Livingston County Department of Planning

Division of  
HAZARD MITIGATION • PLANNING & MANAGEMENT RESEARCH • MAPPING SERVICES

William D. Wagoner  
CM, C.A.M.  
Director

August 20, 2008



Genoa Township Board of Trustees  
c/o Paulette Skolarus, Clerk  
Genoa Township Hall  
2911 Dorr Road  
Brighton, MI 48116

Kathleen J. Kline-Hudson  
AICP, PEM  
Assistant Director

Nancy Vorhoff  
Administrative Specialist

**Re: Planning Commission Review of Rezoning Z-29-08 and Z-30-08**

Dear Board Members:

Robert A. Stanford  
AICP, PEM  
Principal Planner

The Livingston County Planning Commission met on Wednesday, August 20, 2008, and reviewed the Rezoning request.

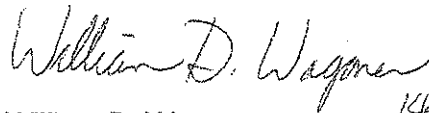
Scott Barb  
Principal Planner

**Z-29-08 Approval**

**Z-30-08 Approval**

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,

  
William D. Wagoner

William D. Wagoner

Department Information

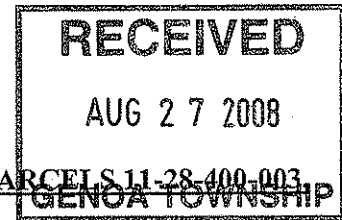
Administration Building  
04 E. Grand River Avenue  
Suite 206  
Howell, MI 48843-2323

Enclosures

(517) 546-7555  
Fax (517) 552-2347

c: Don Pobuda, Chair Genoa Township Planning Commission  
Kelly VanMarter, Planning Coordinator, Genoa Township

Web Site  
cc.livingston.mi.us



**B. Z-30-08 GENOA TOWNSHIP, REZONING, REQUEST TO REZONE PARCELS 11-28-400-003, 11-28-400-004 FROM MUPUD TO LRR.**

**Current Zoning** MUPUD Mixed Use Planned Unit Development  
**Proposed Zoning** LRR Lakeshore Resort Residential  
**Proponents** Genoa Charter Township/McDonald and Price

**Township Master Plan:** The Future Land Use map of Genoa Charter Township designates the site as **Small Lot Single-Family Residential**. The density of single-family residential uses in this designation is typically 18,000 sq. ft. to 1 acre. These areas will generally be served by public sanitary sewer and public water facilities.

**County Comprehensive Plan:** The Livingston County Comprehensive Plan (as amended) designates this site as Residential. The Plan describes the area in the following manner:

*Residential areas are located mainly in the southeast quadrant of the county. Residential areas are characterized by fairly dense residential, commercial and to some extent industrial development, although less dense and intense than uses found in the cities and villages. Residential areas are not without their rural character and scenic vistas. However, few agricultural lands in Residential areas are expected to exist twenty years from now. New residential developments in these areas should be compact and make the best use of sewer and water if it is available. Cluster projects should be utilized when appropriate to preserve open space and scenic vistas. Projects such as planned unit developments that are not feasible in Cities/Villages or Primary Growth areas because of parcel size or similar restrictions should be channeled into Residential areas. Limited commercial and industrial growth is appropriate.*

**Township Planning Commission Recommendation and Public Comments:** The Genoa Charter Township Planning Commission recommended **APPROVAL** of this **REZONING** request at its July 14, 2008 Planning Commission meeting. There were no public comments regarding the request at the July 14, 2008 Planning Commission public hearing.

**Staff Recommendation: APPROVAL.** Based on the information provided, the proposed rezoning appears to be reasonable and appropriate given the surrounding zoning, current land use and designated future land use.

**Commission Discussion:** None

**Public Comment:** No public comment.

**Commissioner Action:** IT WAS MOVED BY COMMISSIONER KENNEDY-CARRASCO, TO RECOMMEND **APPROVAL**, SECONDED BY COMMISSIONER HAMMOND.  
**All in favor, motion passed. 6-0**

**C. Z-31-08 HANDY TOWNSHIP, REZONING, AR TO 1-2, 3889 GREGORY RD.**

**Current Zoning** AR – Agricultural Residential  
**Proposed Zoning** 1-2 General Industrial  
**Proponents** Ward and Peggy Dey

**Township Master Plan:** The Handy Township Master Plan designates the subject site as an industrial use. According to the plan, 'The Light Industrial land use category is intended to accommodate primarily light

draft

LIVINGSTON COUNTY PLANNING DEPARTMENT – ZONING REVIEW

**RECEIVED**  
AUG 27 2008

<b>CASE NUMBER:</b> Z-30-08	<b>LOCATION:</b> Genoa Township <b>SECTION NUMBER:</b> Section 28 <b>TOTAL ACREAGE:</b> approx. 1.4 acres	<b>APPLICANT/OWNER:</b> Genoa Charter Township Price
-----------------------------	---	---

**CURRENT ZONING:** MUPUD Mixed Use Planned Unit Development

**PERMITTED/SPECIAL USES (Not all inclusive):**

**Permitted:** A mixture of public, residential, commercial, recreational or open space uses.

**Special:** Special land uses of the zoning districts applicable to each PUD component.

**MINIMUM LOT AREA:**  
A minimum area of twenty (20) acres of contiguous land.

**REQUESTED ZONING:** LRR Lakeshore Resort Residential

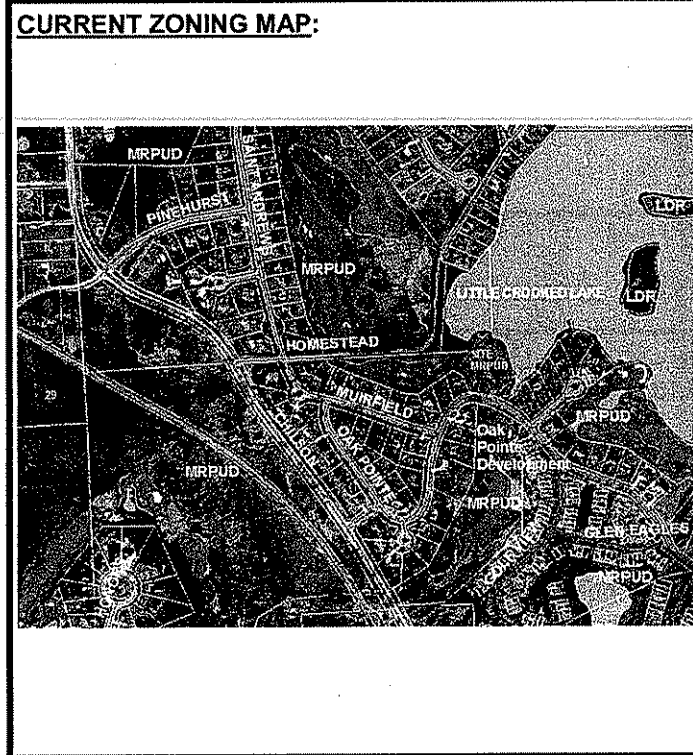
**PERMITTED/SPECIAL USES (Not all inclusive):**

**Permitted:** Single family detached dwellings; accessory home occupations; accessory uses, buildings and structures; and adult foster care family home.

**Special:** Adult foster care small group home; group day care home; places of worship; schools and public buildings and uses.

**MINIMUM LOT AREA:**

- 12,800 square feet lots of record in existence on 1/1/91, requires public sanitary sewer
- 1 acre lots created after 1/1/91 without public sanitary sewer.
- 21,780 square feet lots created after 1/1/91 with public sanitary sewer.



SURROUNDING ZONING	
Zoning Designation	Minimum Lot Size
Mixed Use PUD	varies
LRR Lakeshore Resort Residential	12,800 sq. ft. – 1 acre
LDR Low Density Residential	1 acre

**ESSENTIAL FACILITIES:**

**SANITARY SEWER:** Public Sanitary Sewer

**WATER SUPPLY:** Public Water

**ACCESS ROAD(S):** Oak Pointe, subdivision street

**TOWNSHIP PLANNING COMMISSION RECOMMENDATION AND PUBLIC COMMENTS:**

The Genoa Charter Township Planning Commission recommended **APPROVAL** of this **REZONING** request at its July 14, 2008 Planning Commission meeting. There were no public comments regarding the request at the July 14, 2008 Planning Commission public hearing.

**EXISTING CONDITIONS:**

The rezoning site is located in Section 28 of Genoa Charter Township, within the Oak Pointe development located north of Brighton Road and east of Chilson Road.

**Natural Areas:** The Livingston County Department of Planning's publication *Livingston County's High-Quality Natural Areas* indicates that there are no significant natural areas on this site.

**Land Use:** The site contains two single-family residential homes.

**Soils:** The majority of the site consists of Bronson loamy sand. This soil is moderately well-drained and the surface run-off is slow. The soil presents moderate limitations for nonfarm uses. The southeastern portion of the site may consist of some Carlisle muck soil that presents severe limitations for most nonfarm uses.

**Wetlands:** There are no wetlands on-site, however the properties abut the open water of Little Crooked Lake.

**Topography:** The topography of the site is nearly level (0-2% slope).

**Vegetation:** Most of the vegetation on-site is suburban landscaping.

**TOWNSHIP MASTER PLAN:**

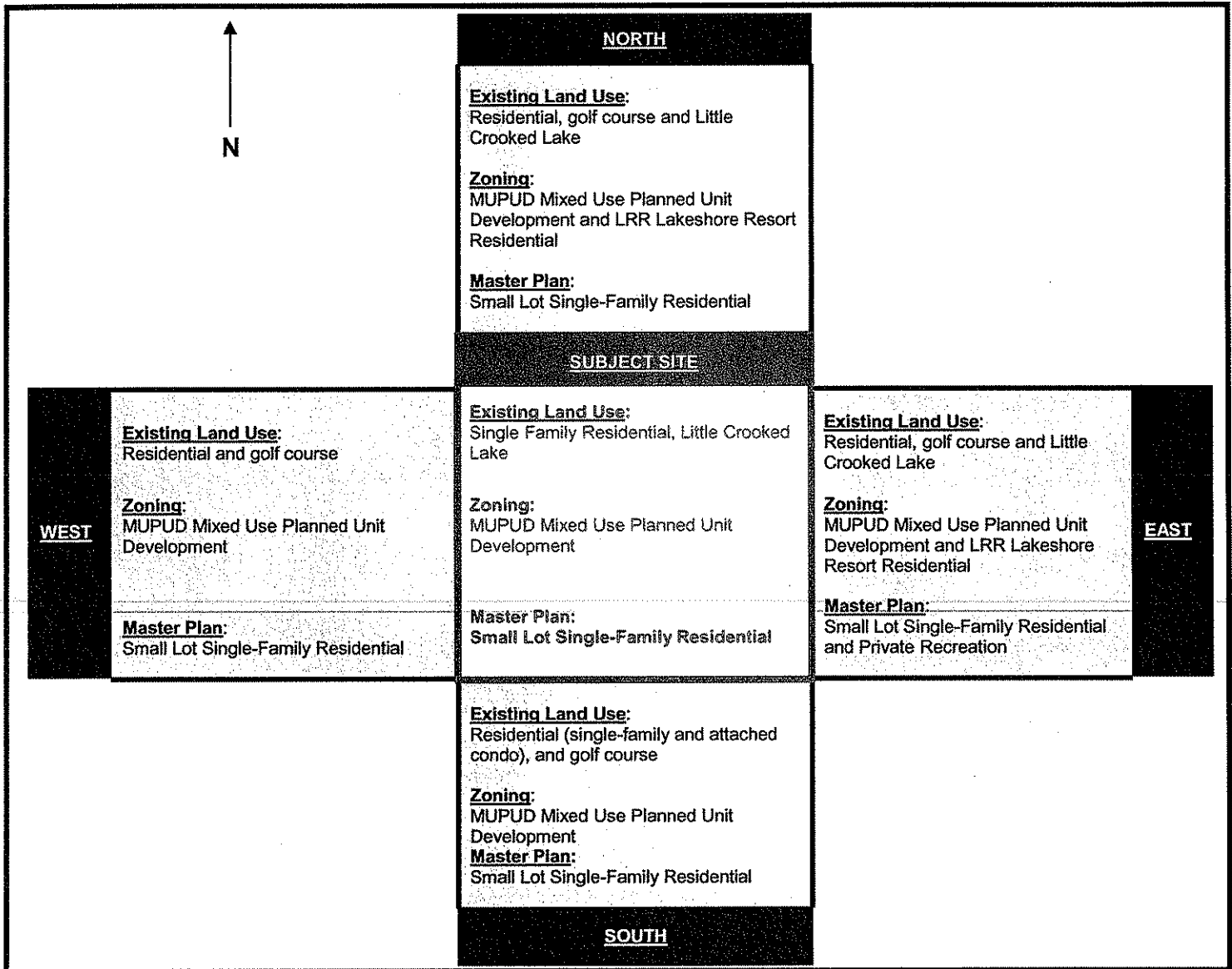
The Future Land Use map of Genoa Charter Township designates the site as **Small Lot Single-Family Residential**. The density of single-family residential uses in this designation is typically 18,000 sq. ft. to 1 acre. These areas will generally be served by public sanitary sewer and public water facilities.

**COUNTY COMPREHENSIVE PLAN:**

The Livingston County Comprehensive Plan (as amended) designates this site as **Residential**. The Plan describes the area in the following manner:

*Residential areas are located mainly in the southeast quadrant of the county. Residential areas are characterized by fairly dense residential, commercial and to some extent industrial development, although less dense and intense than uses found in the cities and villages. Residential areas are not without their rural character and scenic vistas. However, few agricultural lands in Residential areas are expected to exist twenty years from now. New residential developments in these areas should be compact and make the best use of sewer and water if it is available. Cluster projects should be utilized when appropriate to preserve open space and scenic vistas. Projects such as planned unit developments that are not feasible in Cities/Villages or Primary Growth areas because of parcel size or similar restrictions should be channeled into Residential areas. Limited commercial and industrial growth is appropriate.*

**CURRENT LAND USE, ZONING, AND MASTER PLANNING MATRIX:** The graphic below provides a general overview of the existing uses, zoning and future land use designations of the subject site and the immediately adjacent parcels.



**COUNTY PLANNING STAFF COMMENTS:**

The Township is requesting this rezoning from the current **MUPUD Mixed Use Planned Unit Development** zoning to **LRR Lakeshore Resort Residential** zoning. This request is due to the fact that these two parcels are not part of the Oak Pointe Mixed Use Planned Unit Development agreement. The requested LRR zoning is consistent with recent rezoning requests to LRR (Z-29-08 August 2008) involving the islands in the middle of Little Crooked Lake and other properties adjacent to the lake that are also not a part of the Oak Point MRPUD. LRR zoning is consistent with the residential use of these two properties and lake side location, and the size of the properties conforms to the ½ acre minimum lot size of the LRR district. Additionally, LRR zoning is consistent with the Small Lot Single-Family Residential designation of the Genoa Township Master Plan.

*County planning staff received a map of the proposed rezonings and minutes from the public hearings regarding this case. The information that the department is still not receiving, is a completed rezoning amendment form that demonstrates whether or not public notice requirements are being met. County planning staff have ethical concerns regarding the requirement that professional planners should provide full, clear and accurate information on planning issues to citizens and governmental decision-makers. We believe that the lack of information received from Genoa Charter Township with zoning map and text amendments, inhibits the ability of staff to conduct a comprehensive review and limits the opportunity for citizens to have a meaningful impact on the development of plans and programs.*

**ANALYSIS BY:**  
Kathleen Kline-Hudson

**DATE:** August 12, 2008

**CASE NUMBER:** Z-30-08

**PAGE:** 4

**STAFF RECOMMENDATION:**

**APPROVAL.** Based on the information provided, the proposed rezoning appears to be reasonable and appropriate given the surrounding zoning, current land use and designated future land use.

GENOA TOWNSHIP

JUN 0 5 REC'D

RECEIVED

June 3, 2008

Attention: Kelly VanMarter  
Genoa Township, Planning Director

Ref: Rezoning proposal, change from MUPUD to LRR  
Received May 21, 2008

Thank you for spending a few moments with me on June 2, 2008 to discuss the letter you sent regarding rezoning of my open space property along Homestead Dr.


After some discussion with my wife we have come to the conclusion that we are not prepared to make a determination to your request at this time.

I would like to point out an error statement in the mentioned mailed notice, "proposing to rezone my property to correct an error". There is no error to the zoning identification code the Master Development Plan was an approved plan back when Oak Point Golf Course was in their creation phase. In my observation you are requesting a "change" to my property zoning.

My wife and I will attend the meeting scheduled for June 9, 2008 in hopes to get further information from the Planning Commission Meeting but do not at this time agree with the suggested change to zoning of my property.

Respectfully,

Robert K. McDonald  
Judith A. McDonald

 6-3-08



**TO: Township Board**  
**FROM: Kelly VanMarter, Planning Director**  
**DATE: August 28, 2008**  
**RE: The Learning Tree Special Land Use (1183 Parkway Drive, Howell)**

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Based on a recommendation from the Planning Commission, staff suggests the following action regarding the proposed Special Land Use, Impact Assessment and Site Plan for a child care center located in the Industrial zoning district at 1183 Parkway Drive, Howell (11-09-100-019):

**Special Use Permit:** approval because this is an appropriate Special Use in this location and meets the general requirements of Section 19.03 of the Zoning Ordinance.

**Impact assessment (dated 8-12-08):** approval.

**Site Plan (dated 8-21-08):** approval with the following conditions:

1. The landscape plan shall be revised to reflect the changes made to the site plan.
2. As requested by the Planning Commission, the dumpster and enclosure shall be reoriented to allow for direct access rather than angled.
3. Approval from the Brighton Area Fire Department regarding the requirements in their letter dated June 30, 2008 will be obtained prior to issuance of a Land Use Permit.
4. The applicant should be aware that additional connection fees might be required prior to issuance of a Land Use Permit. Township Staff will determine these fees.

**GENOA TOWNSHIP  
APPLICATION FOR SITE PLAN REVIEW**

TO THE GENOA TOWNSHIP PLANNING COMMISSION AND TOWNSHIP BOARD:

APPLICANT NAME & ADDRESS\*: Frank Zychowski, AZD Assoc., 35980 Woodward Ave, Suite 300  
Bloomfield Hills, MI 48304  
OWNER'S NAME & ADDRESS: Carol Gatewood, AJ Dancoise, 31015 Grand River Ave,  
Farmington, MI 48336  
SITE ADDRESS: 1183 Parkway Dr. PARCEL #(s): 11-09-100-019  
APPLICANT PHONE: (248) 540.6009 OWNER PHONE: (248) 477.3626

LOCATION AND BRIEF DESCRIPTION OF SITE:

At the corner of Parkway & Grand River Ave. It is an existing site with  
an existing industrial building and retention pond.

BRIEF STATEMENT OF PROPOSED USE:

The proposed use is a child care center.

THE FOLLOWING BUILDINGS ARE PROPOSED:

The existing building is to be renovated - no additional buildings  
are proposed.

I HEREBY CERTIFY THAT ALL INFORMATION AND DATA ATTACHED TO AND MADE PART OF THIS APPLICATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

BY: Frank Zychowski

ADDRESS: 35980 Woodward Ave, Suite 300, Bloomfield Hills, MI 48304

\* If applicant is not the owner, a letter of Authorization from Property Owner is needed.

**Contact Information** - Review Letters and Correspondence shall be forwarded to the following:

1.) Frank Zychowski of AZD Associates at (248) 540.6009  
Name Business Affiliation Fax No.

**FEE EXCEEDANCE AGREEMENT**

As stated on the site plan review fee schedule, all site plans are allocated two (2) consultant reviews and one (1) Planning Commission meeting. If additional reviews or meetings are necessary, the applicant will be required to pay the actual incurred costs for the additional reviews. If applicable, additional review fee payment will be required concurrent with submittal to the Township Board. By signing below, applicant indicates agreement and full understanding of this policy.

SIGNATURE: [Signature] DATE: 07.08.08  
PRINT NAME: Frank Zychowski PHONE: 248.540.6009  
ADDRESS: 35980 Woodward Ave, Suite 300, Bloomfield Hills, MI 48304

**APPLICATION FOR SPECIAL LAND USE  
GENOA TOWNSHIP**

APPLICANT NAME\* & ADDRESS: Frank Zychowski, 35980 Woodward, Ste 300 Bloomfield Hills, MI 48304

OWNER NAME\* & ADDRESS: Carol Gatewood, AJ Danboise, 31015 Grand River Ave, Farmington, MI 48336

SITE ADDRESS: 1183 Parkway Dr. PARCEL #(s): \_\_\_\_\_

APPLICANT PHONE: (248) 540. 6009 OWNER PHONE: (248) 477. 3626

Location and brief description of site and surroundings:

At the corner of Parkway & Grand River Ave. It is an existing industrial site with existing building and retention pond.

Proposed Use:

Child Care Center

Describe how your request meets the Zoning Ordinance General Review Standards (section 19.03):

a. Describe how the use will be compatible and in accordance with the goals, objectives, and policies of the Genoa Township Comprehensive Plan and subarea plans, and will promote the Statement of Purpose of the zoning district in which the use is proposed.

A child care center will benefit the community and surrounding area in that it will improve the current appearance of the building and promote the locale as a destination.

b. Describe how the use will be designed, constructed, operated, and maintained to be compatible with, and not significantly alter, the existing or intended character of the general vicinity.

The use of the building will be indoors with a controlled and fenced exterior play area. Traffic will be monitored and the site will not be a burden on the surrounding areas.

c. How will the use be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, water and sewage facilities, refuse disposal and schools?

All existing infrastructure will remain in place, and existing utilities should be adequate for the proposed use.

d. Will the use involve any uses, activities, processes, or materials potentially detrimental to the natural environment, public health, safety, or welfare by reason of excessive production of traffic, noise, vibration, smoke, fumes, odors, glare, or other such nuisance? If so, how will the impacts be mitigated?

No, the activities on site will not be detrimental.

e. Does the use have specific criteria as listed in the Zoning Ordinance (sections 3.03.02, 7.02.02, & 8.02.02)?  
If so, describe how the criteria are met.

Yes, outdoor and indoor play space have been provided.

I HEREBY CERTIFY THAT ALL INFORMATION AND DATA ATTACHED TO AND MADE PART OF THIS APPLICATION ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I AGREE TO DESIGN, CONSTRUCT AND OPERATE, AND MAINTAIN THESE PREMISES AND THE BUILDINGS, STRUCTURES, AND FACILITIES WHICH ARE GOVERNED BY THIS PERMIT IN ACCORDANCE WITH THE STATED REQUIREMENTS OF THE GENOA TOWNSHIP ZONING ORDINANCE, AND SUCH ADDITIONAL LIMITS AND SAFEGUARDS AS MAY BE MADE A PART OF THIS PERMIT.

THE UNDERSIGNED \_\_\_\_\_ STATES THAT THEY ARE THE FREE OWNER\* OF THE PROPERTY OF PROPERTIES DESCRIBED ABOVE AND MAKES APPLICATION FOR THIS SPECIAL LAND USE PERMIT.

BY: Frank Zychowski

ADDRESS: AZD Associates, 35980 Woodward Ave, Ste 300, Bloomfield Hills, MI 48304

\*Submit a letter of Authorization from Property Owner if application is signed by Acting Agent.

**Contact Information** - Review Letters and Correspondence shall be forwarded to the following:

1.) Frank Zychowski of AZD Associates at (248) 540.2622  
Name Business Affiliation Fax No.

Note: This application must be accompanied by a site plan review application and the associated site plan review submittal requirements. (The Zoning Administrator may allow a less detailed sketch plan for a change in use.)

**FEE EXCEEDANCE AGREEMENT**

As stated on the site plan review fee schedule, all site plans are allocated two (2) consultant reviews and one (1) Planning Commission meeting. If additional reviews or meetings are necessary, the applicant will be required to pay the actual incurred costs for the additional reviews. If applicable, additional review fee payment will be required concurrent with submittal to the Township Board. By signing below, applicant indicates agreement and full understanding of this policy.

SIGNATURE: [Signature] DATE: 07.08.08

PRINT NAME: Frank Zychowski PHONE: 248.540.6009

ADDRESS: 35980 Woodward Ave, Ste 300, Bloomfield Hills, MI 48304

**GENOA TOWNSHIP  
PLANNING COMMISSION  
PUBLIC HEARING  
AUGUST 11<sup>th</sup>, 2008  
7:00 P.M.  
AGENDA**

CALL TO ORDER: At 6:30 p.m., the Genoa Township Planning commission was called to order. Present constituting a quorum were Chairman Doug Brown, Barbara Figurski, Dean Tenge, James Mortensen, Chris Grajek and Diana Lowe. Also present were Brian Borden of LSL and Tesha Humphriss, Township Engineer, and Kelly VanMarter, Planning Director.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was recited.

APPROVAL OF AGENDA: Upon motion by Barbara Figurski and support by James Mortensen, the agenda was approved as submitted. **Motion carried unanimously.**

WORK SESSION: A work session was held.

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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 special use application, impact assessment and site plan for a proposed day care center located in an existing building at 1183 Parkway Dr. Howell, MI 48843, Sec. 5, petitioned by AZD Associates.

The Petitioner, Carol Gatewood, Todd Smith, and Mark Leonard addressed the Planning Commission. She would like to open a high quality day care center in an existing building. This will be her fourth day care center.

Todd Smith discusses the plans with the Planning Commission. The consultants' comments have already been taken into consideration and the plans have been altered to reflect that. The most recent set of plans is dated August 2, 2008. The Planning Commission does not have a copy of these plans. The loading area has been revised, but the width is not yet at 500 feet. It's currently at approximately 420 feet.

Todd Smith presents the color boards to the Planning Commission. The renderings are also presented. A copy of the private road easement was given to the Planning Commission.

Todd Smith discusses the traffic impact study. There is currently a left hand turn lane and a deceleration lane in place. These would be utilized. The traffic consultant indicated they'd be happy to do an impact study, but they feel it is comparable to a light industrial flow.

As it relates to lighting, there are existing can fixtures. Petitioner would like to use those in addition to the decorative light fixtures on the sides of the building.

Chairman Brown discusses traffic and parking with the petitioner. The petitioner uses buses to retrieve the children from school and brings them to the day care center, which decreases the traffic flow.

Brian Borden indicates that the trips were calculated by manual and does not take into account the busing that is offered. Petitioner indicates peak time is 7:30 – 8:30 a.m. and 3:00 – 6:30 p.m. Also, approximately fifty percent of the parents have more than one child in day care. Additionally, approximately 20-25% of the children only attend after school.

Brian Borden indicates the Planning Commission has the discretion to waive the requirement of the traffic study. Tesha Humphriss indicates the negative impact would be on Parkway Drive. Grand River would not suffer a negative impact due to the left hand turn lane and deceleration lane already in existence. MDOT would never approve a light at Grand River and Parkway. Parkway already has a left hand turn lane. Therefore, she thinks a traffic study would indicate that no improvements were needed.

Petitioner indicates that "full capacity" in a child care center is 70%. This should also be taken into consideration.

James Mortensen asks Brian Borden about the smaller loading space referenced in the consultants' letter. This would be for the loading of supplies, not children. Brian Borden indicates the Planning Commission has discretion to allow the smaller space.

The consultants review the updated plans and feel that it successfully addresses their primary concerns. Brian Borden would like to see the parking space next to the waste receptacle removed. The dumpster should be reoriented to allow for direct access to it, rather than angled. Petitioner agrees.

Chris Grajek indicates he feels the traffic study is not needed. Tesha Humphriss indicates that any scope of the traffic study would be "no scope."

Brian Borden indicates that the landscape plan is inconsistent as it relates to the table and the plan. Additionally, the applicant should arrange for the garbage to be collected at off-peak times. The other facilities are done before they open.

Petitioner addresses the Brighton Fire Department letter. Petitioner agreed to all items in the letter and will incorporate those changes that haven't already been made in the final plan.

**Planning Commission disposition of petition**

- A. Recommendation of Special Use Application.
- B. Recommendation of Impact Assessment.
- C. Recommendation of Site Plan.

**Motion** by James Mortensen to recommend to the Township Board approval of a special use permit to allow Learning Tree to establish a child care center in an existing facility at the corner of Parkway Drive and Grand River, subject to the following:

- 1. Approval by the Township of the site plan and impact assessment;
- 2. This recommendation is given because the Planning Commission believes that this is an appropriate special use permitted within an industrial district and meets the requirements of section 19.03 of the Township Ordinance. Further, the Planning Commission believes this child care center will provide a needed service to nearby employees, as well as other residents of the community.

Support by Barbara Figurski. **Motion carried unanimously.**

**Motion** by Barbara Figurski to recommend that the Township Board approve the impact assessment dated July 10, 2008 subject to:

- 1. The addition of dust control measures;
- 2. The hours of operation should be outlined, which are 6:30 a.m. to 6:30 p.m., Monday through Friday;
- 3. The dumpster pick-ups and deliveries will be outside of normal business hours.

Support by James Mortensen. **Motion carried unanimously.**

**Motion** by James Mortensen to recommend approval of the site plan dated 7/22/08 as amended 8/7/08, subject to the following:

- 1. Approval by the Township Board of the environmental impact assessment and special use permit;
- 2. The proposed architectural renderings and materials are acceptable to the Township and will become Township property;
- 3. A parking space in the vicinity of the dumpster will be removed and the dumpster will be reoriented;
- 4. The wall-mounted decorative fixtures are acceptable as depicted;

5. The requirements of the Brighton Area Fire Department as spelled out in their letter of July 30, 2008 will be complied with;
6. The Planning Commission finds that a traffic study is not required.

Support by Barbara Figurski. **Motion carried unanimously.**

**OPEN PUBLIC HEARING #2...** Discussion of Planning Commission By-Laws as presented by Kelly VanMarter, Genoa Charter Township Planning Director.

Kelly VanMarter presents a template for By-Laws for the Planning Commission to review and begin paring down. James Mortensen feels that it is necessary to reduce the amount of rules placed upon the Planning Commission and make sure that Board items are in the Board's By-Laws, etc.

Chairman Brown feels that the items pertaining to the Planning Director need not necessarily be in the By-Laws for the Planning Commission.

Kelly VanMarter advises what the By-Laws are required by law to contain. James Mortensen feels that the By-Laws should not contain much more than that.

---

Kelly VanMarter will pare down the By-Laws and provide copies to the Planning Commission members with time to review it prior to the next meeting.

**Administrative Business:**

- *Planners report presented by LSL Planners.* Brian Borden has nothing to add, other than his congratulations to the Planning Commission members retained in the last election.
- *Approval of July 14<sup>th</sup>, 2008 Planning Commission meeting minutes.* **Motion** by Barbara Figurski to approve the minutes of the July 14, 2008 meeting, as amended. Support by James Mortensen. **Motion carried unanimously.**
- *Member Discussion.* The next meeting will be September 8<sup>th</sup>, 2008. The By-Laws will probably be addressed at that meeting.

**Motion** by Barbara Figurski to adjourn the meeting at 8:25 p.m.. Support by Chris Grajek. **Motion carried unanimously.**





**LSL Planning, Inc.**

Community Planning Consultants

July 30, 2008

Planning Commission  
Genoa Township  
2911 Dorr Road  
Brighton, Michigan 48116

<b>Subject:</b>	Learning Tree North Child Care Center – Special Use and Site Plan Review #2
<b>Location:</b>	1183 Parkway Drive - Southeast corner of Grand River Avenue and Parkway Drive
<b>Zoning:</b>	IND Industrial District
<b>Applicant:</b>	Frank Zychowski AZD Associates 35980 Woodward Avenue, Suite 300 Bloomfield Hills, MI

Dear Planning Commissioners:

At the Township’s request, we have reviewed the revised site plan (dated 7/22/08) and special land use application for a new child care center within the existing building at 1183 Parkway Drive. The site is located at the southeast corner of the intersection of Grand River Avenue and Parkway Drive, and is currently zoned IND Industrial District. The request has been reviewed in accordance with the Genoa Township Master Plan and Zoning Ordinance.

**A. Summary of Issues**

1. Planning Commission approval is required for the proposed architecture, including materials and colors.
2. The Planning Commission may approve a smaller loading space.
3. The exit drive aisle is 19 feet wide, which may not provide sufficient width to also accommodate a drop-off lane. If one light pole was relocated, the parking spaces could be shifted to provide a wider drive aisle.
4. We recommend the applicant arrange for trash removal during off peak times.
5. The Planning Commission may allow the decorative fixtures in place of downward directed fixtures.
6. A traffic impact study is required.

**B. Proposal**

The applicant proposes to re-use an existing 11,680 square foot building as a child care center. Some external building site changes are proposed as part of the project. Child care centers are special land uses in the IND.

The request for a new special land use within a developed site provides the Township with an opportunity to require additional improvements to current site design deficiencies, such as lighting, landscaping and sidewalks. The applicant proposes a number of exterior improvements as part of the project, including a new pathway along Grand River, additional landscaping, façade improvements and new parking lot striping.

**C. Special Use Review**

The project has been reviewed in accordance with the review standards of Section 19.03.

1. **Master Plan.** The Master Plan and Future Land Use Map identify the site as Industrial. The Master Plan describes this classification as an area “to develop industrial uses such as research, wholesale and warehouse activities and light industrial operations which manufacture, compounding, process, package, assemble and/or treat finished or semi-finished products from previously prepared material.” There is no mention of institutional uses in the description of this classification; however, day care is often included as a service use in major employment locations.
2. **Compatibility.** The adjacent land uses along Parkway Drive are light industrial/commercial in nature, and the Grand River corridor is primarily commercial. In general, a service use such as a child care center would be considered compatible and would not be expected to adversely impact the existing surrounding uses. The proposed use could provide a valuable service to those working in the surrounding area.
3. **Public Facilities and Services.** As an existing development originally intended for a light industrial/commercial use, necessary utilities are already in place. The project is not anticipated to create any adverse impacts upon public facilities and services; however, this standard is subject to review by the Township Engineer.
4. **Impacts.** The proposed child care center is expected to generate approximately 150 vehicular trips during both the AM and PM peak hour. As such a traffic impact study is required in accordance with Section 18.07.09 of the Zoning Ordinance to fully evaluate the impact of the proposed special land use.
5. **Mitigation.** The Township may require that the applicant provide mitigation necessary to minimize or prevent negative impacts.

**D. Site Plan Review**

1. **Dimensional Requirements.** As described in the table below, the plan complies with the dimensional standards of the Zoning Ordinance for the IND.

District	Lot Size		Minimum Yard Setbacks (feet)				Max. Height	Lot Coverage
	Lot Area (acres)	Width (ft.)	Front Yard	Side Yard	Rear Yard	Parking Lot		
IND	1	150	50	25	40	20	30	40% bldg 85% impervious
Provided	2	338	50	145 (E)	79 (S)	25 (W) 25 (S)	30 to peak	13% bldg 30% impervious

2. **Building Elevations.** The project includes exterior improvements to the building façade. Specific changes shown on the elevation drawings include a new brick clock tower addition, shingled mansard roof, a new standing seam metal roof, new brick piers, new canvas awnings and decorative light fixtures. The applicant must present material and color samples to the Planning Commission. Planning Commission approval is required for the proposed architecture, including materials and colors.

3. **Parking.** The Zoning Ordinance requires 2 spaces, plus 1 for each 8 children of licensed authorized capacity. Based upon the information provided by the applicant, the project requires 24 spaces and 26 are provided. The revised plan provides 2 barrier free spaces, as required. The parking spaces and drive aisles meet the dimensional requirements. A note on the revised plans indicates that spaces will be double striped as required.
4. **Access and Circulation.** The circulation pattern calls for a pair of one way drives. The parking aisle nearest the building has been changed to angled parking due to the narrow drive aisle. While the 19-foot aisle is adequate for one-way traffic with angled parking spaces, this may not be wide enough to also accommodate a drop-off lane as shown on the plan. The inclusion of the drop-off area will make it difficult to access these spaces when the drop-off lane is occupied. The width of the drive aisle could be increased by approximately 5 feet if the light pole in between the angled and perpendicular spaces was relocated and the spaces were shifted south to abut each other. This would improve the circulation pattern for users of both the drop-off lane and angled parking spaces.
5. **Loading.** Section 14.08.08 requires 1 loading space for the proposed project. Such spaces must be a minimum of 500 square feet in area and located in a rear or side yard not directly visible to a public street. The plan identifies a 300 square foot loading area at the edge of the parking lot. While the location is acceptable, the space is smaller than required. The Planning Commission has the authority to approve a smaller space for uses that will involve smaller delivery trucks.
6. **Pedestrian Circulation.** The Zoning Ordinance requires an 8-foot wide concrete pathway along Grand River Avenue. The revised plan provides the required pathway along Grand River, including a barrier free curb ramp at the intersection of Parkway Drive.
7. **Landscaping & Greenbelt.** The following table summarizes the ordinance requirements for landscaping.

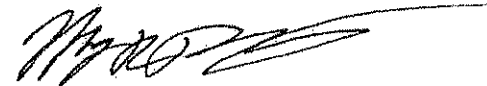
Location	Amount of Planting Required	Amount of Planting Provided	Additional Landscaping Required
Front Yard greenbelt (Grand River)	20 foot greenbelt; 9 canopy trees	50 foot greenbelt; 4 new canopy trees; 1 new evergreen tree (9 existing evergreen trees)	None
Front Yard greenbelt (Parkway)	20 foot greenbelt; 8 canopy trees	50 foot greenbelt; 1 new canopy tree; (8 existing trees)	None
Detention pond	10 canopy OR evergreen trees; 50 shrubs	1 new canopy tree; 3 existing canopy trees; 6 existing evergreen trees; 50 shrubs	None
Parking lot	3 canopy trees; 260 sq. ft. landscaped area	6 existing canopy trees; 2 existing evergreen trees; 280 sq. ft. existing landscaped area	None

- a. The plant list table notes 19 Koreanspice Viburnum, while the plan identifies 18. This minor inconsistency must be corrected.

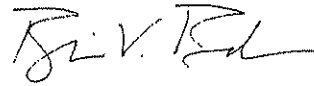
8. **Waste Receptacle and Enclosure.** The plan provides a new waste receptacle and enclosure south of the building. A detail on Sheet SP-1 shows a 6-foot tall screen wall constructed of 8-inch split face CMU to match materials used in the building. The revised plans show the required concrete base pad. Access to the waste receptacle has the potential to disrupt traffic circulation around the site. We recommend the applicant arrange for trash removal during off peak times.
9. **Exterior Lighting.** The plan identifies five existing light poles in the parking lot area. The plan notes that the poles provide shoebox fixtures and no changes are proposed. The Planning Commission may request details of these fixtures to ensure that current Ordinance standards are met. The elevation drawings also identify several decorative wall mounted light fixtures. Details of the wall mounted fixtures have been provided with the revised elevation drawings. The Planning Commission may allow the decorative fixtures in place of downward directed fixtures.
10. **Signs.** The plan notes that the existing monument sign is to remain, but that it will be reworked with signage for the new occupant. The elevation drawings do not identify any wall signage. A sign permit is required for all new signage.
11. **Impact Assessment.** The submittal includes an Impact Assessment (dated 7/10/08) indicating that the project is not anticipated to result in adverse impacts upon the environment, public services, surrounding land uses or traffic. The Assessment provides a brief statement on traffic; however, as noted in the Special Use Review section above, the Zoning Ordinance requires a traffic impact study. This information must be provided.

Should you have any questions concerning this matter, please do not hesitate to contact our office.

Sincerely,  
LSL PLANNING, INC.



Jeffrey R. Purdy, AICP  
Partner



Brian V. Borden, AICP  
Senior Planner



# Genoa Township

2911 Dorr Road • Brighton, Michigan 48116 • (810) 227-5225 • Fax (810) 227-3420 • Email: www.genoa.org

## Memorandum

**TO: Genoa Township Planning Commission Members**

**DATE: August 5, 2008**

**RE: The Learning Tree North  
Site Plan Review #2**

As requested, I have reviewed the above referenced site plan dated July 22, 2008, prepared by AZD Architects. The site is located on the southeast corner of Grand River and Parkway. The petitioner is proposing to convert the existing building into a day care facility. In addition, the petitioner is removing existing pavement, installing new pavement, and installing a new curb cut onto Parkway. Please consider the following comments when taking action on this site plan:

### DRAINAGE AND GRADING

1. The petitioner is maintaining the existing drainage pattern and is decreasing the impervious area on site. Therefore no analysis of the impact to the existing drainage system is required.
2. The petitioner is proposing to remove the existing impervious surface in the back of the site; however no proposed grades are shown. The petitioner should maintain the existing drainage pattern in this area of the site. A soil erosion and sedimentation control permit from the Livingston County Drain Commission will be required for these improvements. The petitioner should submit the plans to the Drain Office for determination of the type of permit that is required.

### TRAFFIC/PAVEMENT

3. The petitioner is proposing a new curb cut onto Parkway Avenue. Parkway Avenue is a private road. The petitioner should demonstrate they have permission to modify the existing curb cut on Parkway.
4. We recommend all the parking spaces on the site be re-aligned to a diagonal configuration. By changing the alignment on the south side of the site the petitioner can decrease the drive aisle to 15-feet. This would allow the northern aisle to be shifted south, creating a larger loading/unloading area near the building.

**Supervisor**  
Gary T. McCriire

**Clerk**  
Paulette A. Skolarus

**Treasurer**  
Robin L. Hunt

**Manager**  
Michael C. Archinal

#### Trustees

H. James Mortensen • Jean W. Ledford • Todd W. Smith • Steven Wildman

## UTILITIES

5. The existing building is connected to municipal sanitary sewer and water. The proposed addition is not expected to have a negative impact on the municipal utilities. However, the following two items should be noted:
  - a. The petitioner will need to provide a backflow and cross connection certification prior to occupancy of the building.
  - b. The petitioner should be aware that an increase in tap in fees may be required per the change in use.

I recommend the Planning Commission consider the above listed items before acting on this site plan. Please feel free to contact me at the Township Hall (810) 227 – 5225 with any questions or concerns.

Sincerely,



Tesha L. Humphriss, P.E.  
Genoa Township Engineer



# Brighton Area Fire Department

615 W. Grand River

Brighton, Michigan 48116

810-229-6640 Fax: 810-229-1619

GENOA TOWNSHIP

AUG 04 REC'D

RECEIVED

July 30, 2008

Kelly VanMarter  
Genoa Township  
2911 Dorr Road  
Brighton, MI 48116

RE: Learning Tree North  
1183 Parkway Drive  
Site Plan Review

Dear Kelly:

The Brighton Area Fire Department has reviewed the above mentioned site plan. The plans were received for review on July 25, 2008 and the drawings are dated July 9, 2008 with revisions dated July 22, 2008. The project is based on a 11,680 square foot building which will be modified for a new day care. This is a revised submittal with changes to the entry-way. The plan review is based on the requirements of the International Fire Code (IFC) 2006 edition.

1. The aisle between the building and parking shall have a clear width of 20' and marked as a fire lane. If parking is desired against the curb it is recommended that the aisle be a minimum of 26'. "No Parking Fire Lane" signs will be required in this area.

**IFC 802**

2. Provide a detail on the fire lane signs and include locations near the curb and the entrance.

**IFC Appendix D**

3. The building shall be provided with a key box and the location of the key box (Knox Box) shall be indicated on future submittals. The Knox box will be located adjacent to the front door of the structure.

**IFC 506.1**

4. It appears the proposed use group will be an "E" use group, although the architect shall specify the proposed use group. If the building is classified as I-4, an automatic sprinkler system shall be provided and the underground fire protection lead shall be shown.

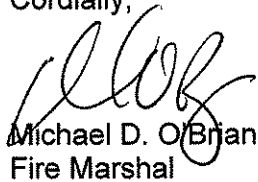
**IFC 508**

5. The monument sign is indicated for future permit. It is recommended that the address be provided on the sign.

**IFC 803**

Additional comments will be given during the building plan review process (specific to the building plans and occupancy). If you have any questions about the comments on this plan review please contact me at 810-225-8033.

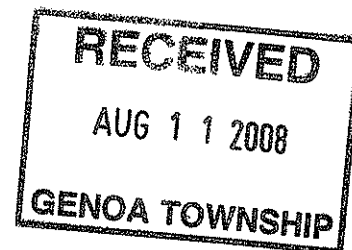
Cordially,



Michael D. O'Brien  
Fire Marshal



**Impact Statement  
Prepared for  
The Learning Tree  
1183 Parkway  
Genoa, Township  
Dated July 10, 2008  
Revised August 12, 2008**



Prepared By:

Todd Smith  
Laurex Real Estate  
46100 Grand River  
Novi, MI 48374

**Description of Property:**

The Existing property is improved with an existing 12,000 sq. ft multi tenant industrial building fronting on Grand River and Parkway Drive. The existing building used to house a heating and cooling company in the eastern portion of the building and a tenant located on the western unit. The site is fully improved with Sanitary Sewer, Storm and municipal Water. The site has a fenced area that housed a loading area. Existing Landscaping was per site plan approval on the original building.

Adjoining the property to the east is Rueland Electric and existing industrial use and to the north is a vacant industrial lot.

**Impact on Natural Features:**

There will be no impact to any natural features except for an enhancement to the existing landscaping.

Dust control measures shall be taken and noted on the site plan during construction and renovation of the property.

**Impact on Storm water:**

Storm water run off will be less than the existing use which goes to a common retention pond located on the east side of the site. Impervious area will be reduced with the addition of the playground area which was previously the loading dock area.

**Impact on Surrounding Use:**

With the redevelopment of the site to the Learning Tree it will greatly enhance the image along the Grand River corridor. The overall use of the property will be less intense and there shall be no additional light, noise or air pollution that will result from the use.

**Impact on Public Facilities:**

There shall be a lowered use of any Public Facilities with the use of the Learning Tree. Approx 12 employees shall be working at the high end day care center.

Hours of Operation shall be from 6:30 am to 6:30 pm except for occasional special events. Monday thru Friday and closed National Holidays

The owner operator shall coordinate for Trash and Dumpster service to be during non active hours of operation at the Day Care Center.

**Impact on Public Utilities:**

We will submit actual use of Sanitary and Water useage from the exisiting 12,000 sq. ft. Learning Tree Center in Livonia Michigan to determine water and sewer tap fees.

**Storage of Hazardous Materials:**

The will be no Hazardous Materials on site

**Impact on Traffic and Pedestrians:**

Traffic will be channeled in an entrance and exit into the center for Pick up and Drop off of children. Traffic enters from Parkway Drive so it will not impact Grand River with turning movements into the center except for those entering Parkway Drive. There exists a left hand turn lane into Parkway and a deceleration lane on Grand River. The Pedestrians traffic will be improved with the installation on a sidewalk along Grand River as shown on the site plan.

As a result of the review of the Genoa Township Planning commission and the discussion during the Planning commission it is deemed that no traffic study is needed.

# MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY PERMIT

## ISSUED TO:

Mr. Randy Jensen  
47308 Sterdley Falls Terrace  
Potomac Falls, VA 20165

Permit No.	05-47-0175-P
Issued	August 27, 2008
Extended	
Revised	
Expires	August 27, 2013

This permit is being issued by the Michigan Department of Environmental Quality (MDEQ) under the provisions of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA) and specifically:

- |  |  |
|--|--|
| <input type="checkbox"/> Part 301 Inland Lakes and Streams             | <input type="checkbox"/> Part 315 Dam Safety                           |
| <input type="checkbox"/> Part 325 Great Lakes Submerged Lands          | <input type="checkbox"/> Part 323 Shorelands Protection and Management |
| <input checked="" type="checkbox"/> Part 303 Wetlands Protection       | <input type="checkbox"/> Part 353 Sand Dune Protection and Management  |
| <input type="checkbox"/> Part 31 Floodplain/Water Resources Protection |  |

Permission is hereby granted, based on permittee assurance of adherence to State requirements and permit conditions to:

### Revised Permitted Activity:

Conservation Easement: Place a wetland conservation easement over remaining wetland on Parcels 4, 6, and 8, and over all wetland on Parcel 2, as shown on the attached Wetland Conservation Easement plan.

Construction: Place equalization culverts and approximately 945 cubic yards of clean inert fill in 12,855 square feet (0.29 acre) of wetland, to construct private driveways and allow for development of three residential parcels.

**Water Course Affected:** Wetland

**Property Location:** Livingston County, Genoa Township, Section 1

**Subdivision, Lot**      **Town/Range** 2N, 5E      **Property Tax No.** 11-01-400-036, 037,039 and 041

### Authority granted by this permit is subject to the following limitations:

- A. Initiation of any work on the permitted project confirms the permittee's acceptance and agreement to comply with all terms and conditions of this permit.
- B. The permittee in exercising the authority granted by this permit shall not cause unlawful pollution as defined by Part 31, Floodplain/Water Resources Protection of the NREPA.
- C. This permit shall be kept at the site of the work and available for inspection at all times during the duration of the project or until its date of expiration.
- D. All work shall be completed in accordance with the plans and the specifications submitted with the application and/or plans and specifications attached hereto.
- E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the structure or work approved herein.
- F. It is made a requirement of this permit that the permittee give notice to public utilities in accordance with Act 53 of the Public Act of 1974 and comply with each of the requirements of that act.
- G. This permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits or complying with other state statutes.
- H. This permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any circuit court of this state when necessary to protect his rights.
- I. Permittee shall notify the MDEQ within one week after the completion of the activity authorized by this permit, by completing and forwarding the attached, preaddressed post card to the office addressed thereon.
- J. This permit shall not be assigned or transferred without the written approval of the MDEQ.
- K. Failure to comply with conditions of this permit may subject the permittee to revocation of permit and criminal and/or civil action as cited by the specific State Act, Federal Act and/or Rule under which this permit is granted.
- L. Work to be done under authority of this permit is further subject to the following special instructions and specifications:

To Board 9/02/08

# MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY PERMIT

## ISSUED TO:

Mr. Philip Mularski  
Lake Chemung Outdoor Resort, Inc.  
320 South Hughes Road  
Howell, MI 48843

Permit No.	08-47-0020-P
Issued	August 21, 2008
Extended	
Revised	
Expires	August 21, 2013

This permit is being issued by the Michigan Department of Environmental Quality (MDEQ) under the provisions of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA) and specifically:

- Part 301 Inland Lakes and Streams
- Part 315 Dam Safety
- Part 325 Great Lakes Submerged Lands
- Part 323 Shorelands Protection and Management
- Part 303 Wetlands Protection
- Part 353 Sand Dune Protection and Management
- Part 31 Floodplain/Water Resources Protection

Permission is hereby granted, based on permittee assurance of adherence to State requirements and permit conditions to:

### Modified Permitted Activity:

Install 196 seasonal mooring posts to provide seasonal mooring for 98 boats as shown on the attached mooring plan, except as follows:

- The most eastern mooring (mooring #27) shall be moved to an internal location adjacent to mooring #1, or mooring #8, to allow a minimum fairway width of 20-feet between the moored boats and east riparian boundary line.
- The most western mooring (mooring #87) shall be moved to an internal location adjacent to mooring #75 to allow a minimum fairway width of 20-feet between the moored boats and west riparian boundary line.

Water Course Affected: Lake Chemung

Property Location: Livingston County, Genoa

Subdivision, Lot

Town/Range 2

04-400-08

*Confidential*

### Authority granted by this permit is subject to the following conditions:

- A. Initiation of any work on the permitted project confirms the permittee's agreement with all terms and conditions of this permit.
- B. The permittee in exercising the authority granted by this permit shall be subject to Part 31, Floodplain/Water Resources Protection of the NREPA.
- C. This permit shall be kept at the site of the work and available for inspection at all times until its date of expiration.
- D. All work shall be completed in accordance with the plans and specifications attached hereto.
- E. No attempt shall be made by the permittee to forbid the full use of the waterway at or adjacent to the structure or work approved herein.
- F. It is made a requirement of this permit that the permittee give notice in accordance with Act 53 of the Public Act of 1974 and comply with each of the requirements of that act.
- G. This permit does not convey property rights in either real estate or personal property, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits or complying with other state statutes.
- H. This permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any circuit court of this state when necessary to protect his rights.
- I. Permittee shall notify the MDEQ within one week after the completion of the activity authorized by this permit, by completing and forwarding the attached, preaddressed post card to the office addressed thereon.
- J. This permit shall not be assigned or transferred without the written approval of the MDEQ.
- K. Failure to comply with conditions of this permit may subject the permittee to revocation of permit and criminal and/or civil action as cited by the specific State Act, Federal Act and/or Rule under which this permit is granted.
- L. Work to be done under authority of this permit is further subject to the following special instructions and specifications:

1. This project shall be constructed as shown on the attached plans and modified by this permit, and the riparian interest area estimate survey.
2. This permit is being issued for the maximum time allowed under Part 301, Inland Lakes and Streams (Part 301), of the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended, including all permit extensions allowed under the administrative rule R 281.813. Therefore, no extensions of this permit will be granted. Initiation of the construction work authorized by this permit indicates the permittee's acceptance of this condition. The permit, when signed by the DEQ, will be for a five-year period beginning at the date of issuance.
3. Upon expiration of this permit, no additional Part 301 permit will be required to seasonally install the mooring posts, providing the marina configuration remains unchanged and the facility is operating under a valid Marina Operating Permit.
4. Prior to initiating construction, authorized by this permit, the permittee is required to provide a copy of the permit to the contractor(s) for his/her review.
5. The property owner, contractor(s), and any agent involved in exercising this permit are held responsible to ensure the project is constructed in accordance with all drawings and specifications contained in this permit. The contractor is required to provide a copy of the permit to any and all subcontractors doing work authorized by this permit.
6. Dredging is not authorized by this permit.
7. Filling is not authorized by this permit.
8. This permit authorizes placement of 196 seasonal mooring posts to seasonally moor 98 boats. No additional attachments to the permitted structures is authorized.
9. Permittee is cautioned that all activity herein authorized is for CONSTRUCTION of marina facilities only and does not authorize operation or use of newly permitted slips. Permittee is required, pursuant to Part 301, Inland Lakes and Streams, of the NREPA, to secure a Marina Operating Permit for the new facilities prior to putting them into service. Notification must also be made to the MDEQ's Land and Water Management Division for the initial compliance inspection prior to operation of the marina. Notify Jim Milne, Great Lakes Shorelands Unit Supervisor, DEQ-LWMD, P.O. Box 30458, Lansing, Michigan 48909.
10. In issuing this permit, the MDEQ has relied on the information and data which the permittee has provided in connection with the permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete, or inaccurate, the MDEQ may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.
11. The authority to conduct the activity as authorized by this permit is granted solely under the provisions of the governing act as identified above. This permit does not convey, provide, or otherwise imply approval of any other governing act, ordinance, or regulation, nor does it waive the permittee's obligation to acquire any local, county, state or federal approval, or authorizations necessary to conduct the activity.
12. This permit does not authorize or sanction work which has been completed in violation of applicable federal, state, or local statutes.
13. Noncompliance with these terms and conditions, and/or the initiation of other regulated activities not specifically authorized by this permit shall be cause for the modification, suspension, or revocation of this permit, in whole or in part. Further, the MDEQ may initiate criminal and/or civil proceedings as may be deemed necessary to correct project deficiencies, protect natural resource values, and secure compliance with statutes.

- 14. This permit placard shall be kept posted at the work site, in a prominent location at all times for the duration of the project, or until permit expiration.
- 15. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity and/or mitigation plan from the MDEQ. Such revision requests shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by the MDEQ prior to being implemented.
- 16. This permit may be transferred to another person upon written approval of the MDEQ. The permittee must submit a written request to the MDEQ to transfer the permit to the new owner. The new owner must also submit a written request to accept transfer of the permit. The new owner must agree, in writing, to accept all conditions of the permit. A single letter signed by both parties which includes all the above information may be provided to the MDEQ. The MDEQ will review the request and if approved, will provide written notification to the new owner.
- 17. A permit may be extended for cause. To request an extension of a permit a written request must be submitted to the MDEQ before the expiration date of the permit. The request must indicate the reasons for the extension. The MDEQ will review the request, and if approved, will provide written notification to the permittee.
- 18. The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents and representatives for any and all claims or causes of action arising from acts or omissions of the permittee, or employees, agents, or representatives of the permittee, undertaken in connection with this permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.
- 19. This permit shall become effective on the date of the MDEQ representative's signature. Upon signing by the permittee named herein, this permit must be returned to the MDEQ's Land and Water Management Division, Lansing District, 4<sup>th</sup> Floor-North, P.O. Box 30242, Lansing, MI 48909, for final execution.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

X Philip Mularski 8/21/08  
 Permittee Date

X PHILIP MULARSKI LAKE CHEMUNG OUTDOOR RESORTS ASSOCIATION PRESIDENT  
 Printed Name and Title of Permittee

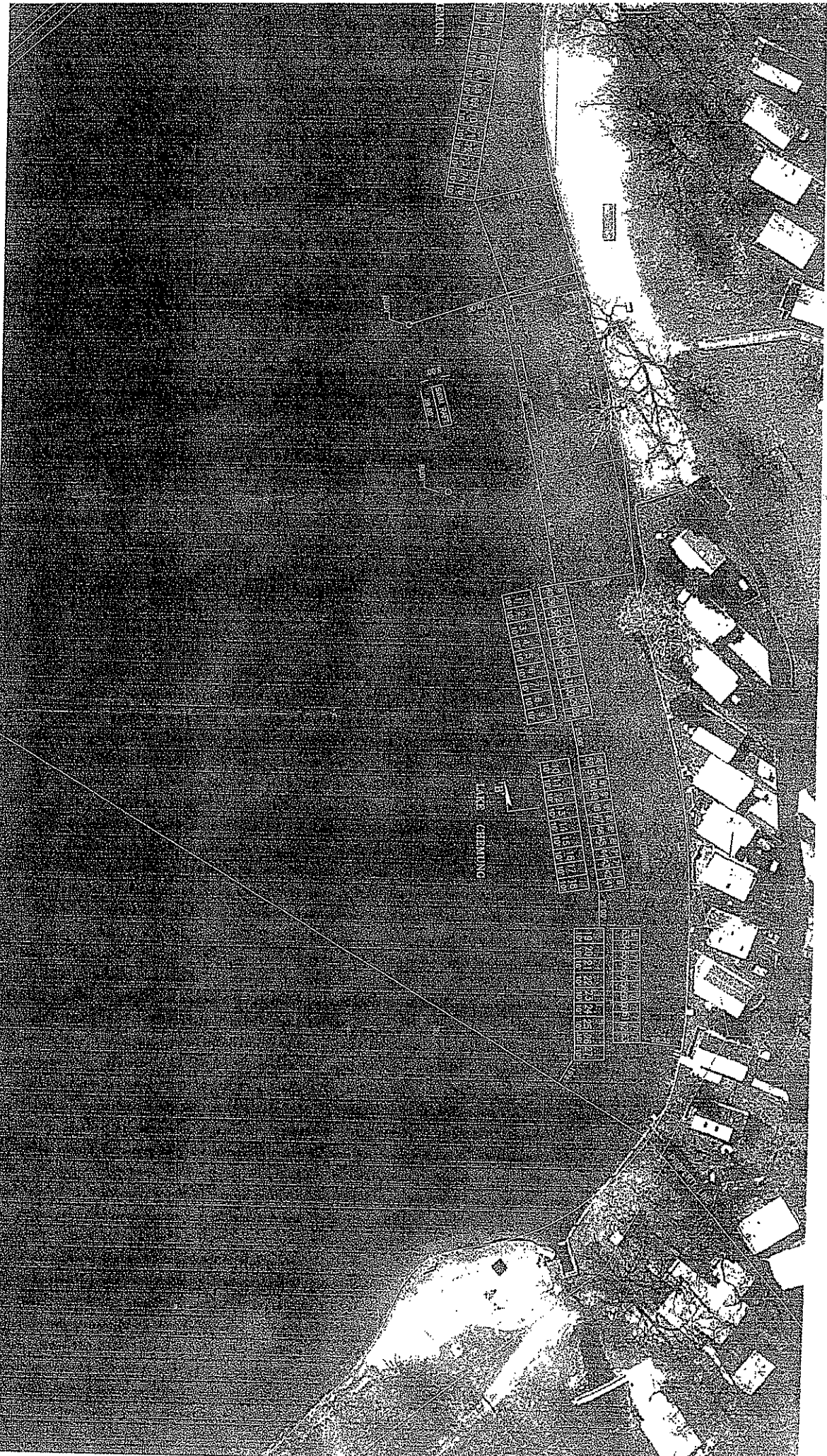
Steven E. Chester, Director  
 Department of Environmental Quality

By [Signature]  
 Thomas Kölhoff  
 District Representative  
 Land and Water Management Division

cc: Livingston CEA  
 Genoa Township  
 Mr. Jim Milne, DEQ

DEQ - LWMD  
File # 08-47-0020-2  
APPROVED PLANS  
Page 2 of 2  
② JHM 8/21/08  
MODIFIED - SEE PERMIT FOR DETAILS

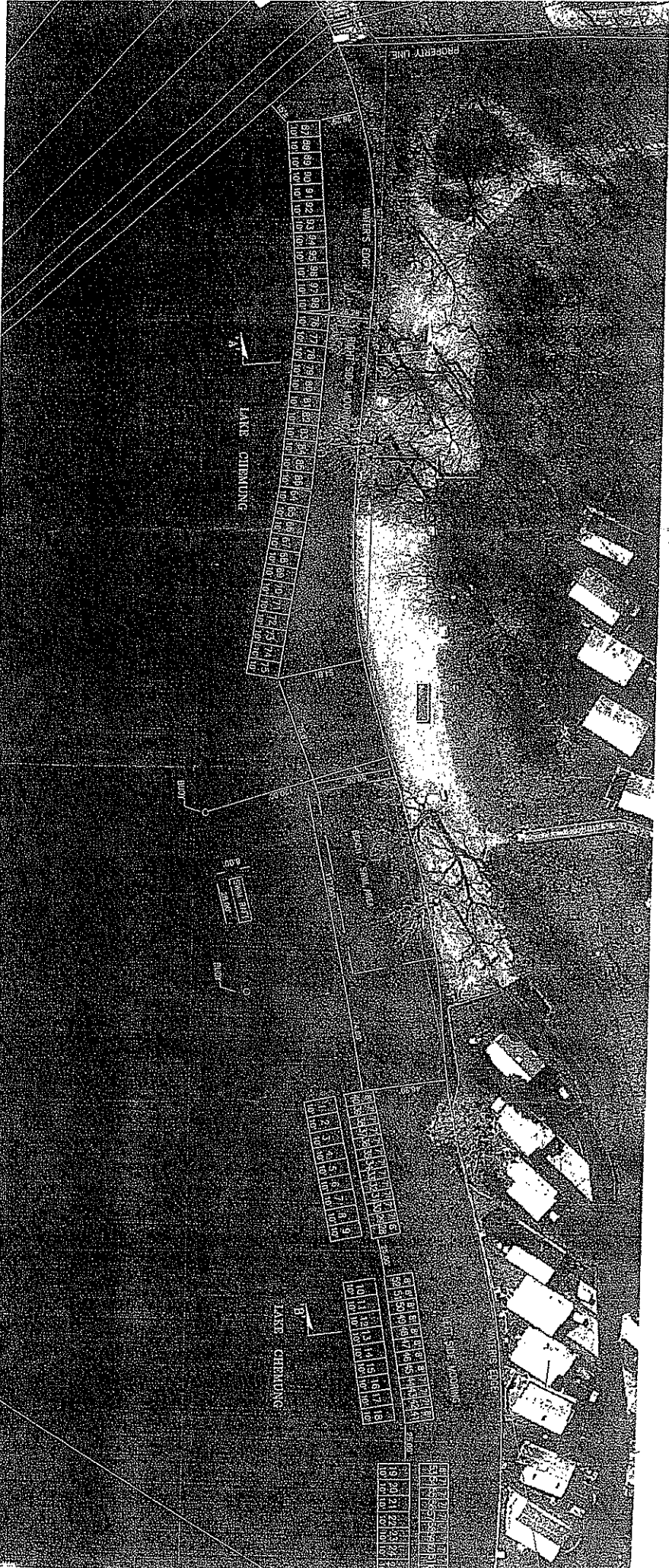
UNRESERVED. THE PAVEMENT LOCATIONS AS DESCRIBED ARE APPROXIMATE.



# PROPOSED BOAT MOORING PLAN

DEO-LWMD  
 File # 08.47.0020-P 8/21/08  
 APPROVED PLANS  
 Page 1 of 2  
 Modified - See Permit For Details  
*(Signature)*

GENERAL SURVEY  
 1. THE SOURCE OF THE LINES IS: LINNISTON DEPARTMENT - GIS ORTHOPHOTO. THE 1 APPROXIMATE.





# MYERS & MYERS, PLLC

ATTORNEYS AT LAW

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Kelly A. Myers  
Roger L. Myers \*  
\* Also Admitted to Practice in California

8163 Grand River Avenue  
Suite 400  
Brighton, Michigan 48114

J. Kyle Guthrie  
Christopher G. Bovid  
Eric C. Jones  
Lawrence K. Kustra

(810)229-6620  
Fax: (810)229-6650

August 21, 2008

## Certified Mail

7002 2410 0004 6062 4147

Ms. Paulette A. Skolarus  
Township Clerk  
Township of Genoa  
2911 Dorr Road  
Brighton, MI 48116

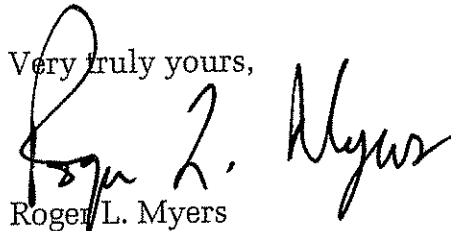
Re: John Beauchamp and John Nagel v Genoa Township, et al.; Case  
No. 08-23806-CZ; Hon. David J. Reader

Dear Ms. Skolarus:

With respect to the above-referenced action, enclosed please find the following documents:

1. Complaint and Jury Demand;
2. Summons for Genoa Township;
3. Scheduling/Trial Order; and
4. Plaintiffs' First Set of Requests for Admission, Interrogatories, and Requests for Production of Documents to Defendant, Genoa Township.

Very truly yours,



Roger L. Myers

RLM/jk

Enclosures

K:\Client Folders\C1194-Nagel\M001\twp clerk.ltr.wpd

STATE OF MICHIGAN

44<sup>TH</sup> CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON

\*\*\*\*\*

John Beauchamp  
Plaintiff,

v

Case No. 08-23806-CZ

Genoa Township  
Defendant.

FILED  
LIVINGSTON COUNTY CLERK  
08 AUG 15 AM 8:06

SCHEDULING/TRIAL ORDER

TRUE COPY  
MARGARET M. DUNLEAVY  
LIVINGSTON COUNTY CLERK

At a session of said Court held in the City of Howell on the  
15 day of August, 2008.

**PRESENT: HONORABLE DAVID J. READER, CIRCUIT JUDGE**

Pursuant to Michigan Supreme Court Administrative Order 2003-7 and Livingston County 44<sup>th</sup> Circuit Court/Family Court Administrative Order No. 2004-07J:

**IT IS HEREBY ORDERED:**

Status Conference is set for: December 3, 2008 @ 11:00 A.M.

Discovery terminates 04/01/09.

Case Evaluation is set for 04/29/09 @ time set by ADR clerk. You will receive a separate notice from the ADR clerk with exact time of scheduled case evaluation.

Final Pretrial is set for 06/12/09 @ 8:30 A.M.

Bench/Jury Trial is set for 06/15/09 @ 8:30 A.M.

You will receive no other notices of scheduled dates.

**PLEASE TAKE NOTICE OF THE FOLLOWING REQUIREMENTS OF THE COURT:**

Plaintiff/Third Party Plaintiff shall cause to be served a copy of this Order upon each Defendant/Third Party Defendant in the case in the same manner as, and at the same time as the service of the Summons and Complaint/Third Party Complaint. Proof of Service shall be filed with the Clerk of the Court. All persons receiving this notice shall immediately notify all other parties that they have received a copy of this Order.

Attorneys, pro per parties, and representatives of insurance carriers **SHALL ATTEND ALL DATES SCHEDULED BY THIS COURT.** Insurance company representatives must have authority to settle. Failure to appear at any court scheduled date may result in sanctions allowed under court rules.

If any party feels that case evaluation or mediation is inappropriate, or that this scheduling will cause hardship, a motion to modify must be filed within 30 days of the receipt of this Scheduling/Trial Order.

**Status Conference:** Insurance representatives are not required to attend Status Conference. Attendance of attorney and pro per party may be waived if all of the listed documents are filed, by *ALL* parties, with the Clerk of the Court **ten (10) days prior to the scheduled Status Conference date:** It is the parties responsibility to confer with the court to ensure attendance requirement has been waived. Should parties opt not to submit the below listed documents **ten (10) days prior to the scheduled Status Conference,** the following documents are due no later than the Status Conference date.

- ✓ **Order for Mediation:** On attached form. Mediation under MCR 2.411(A)(2) is be ordered for all civil cases. The parties shall confer prior to the status conference as to the selection of a mediator. In absence of agreement, a mediator will be selected by the Court pursuant to MCR 2.411(B)(3). Item #3 on the form must indicate a specific number of days by which the mediation will be completed. Mediation must be completed prior to case evaluation. Failure to complete mediation may result in sanctions allowed under court rules.
- ✓ **Witness lists and pretrial statements:** on forms similar to those contained herein. (Original and Judge's Copy)
- ✓ Stipulation that no other parties are to be added.

**Motions:** All motions shall be scheduled for a regular motion day, without exception. An original and Judge's copy is required for all motions. All motions shall be filed and argued no later than 30 days before the scheduled trial date, unless they could not have been reasonably anticipated.

Motions to **add parties** must be filed and argued no later than 180 days from service of this Order; and delay of trial will be a factor when considering if such a motion should be granted.

All dispositive motions **must be filed and argued before Case Evaluation.** Each motion, brief and any response to such motion shall be submitted in Word and/or WordPerfect **ONLY** format on disk or e-mailed to:

**JudgeReaderMotions@co.livingston.mi.us** at the same time that the original and judge's copy are submitted to the Clerk of the Court. Exhibits for summary disposition motions need not be included in digital submissions. Electronic submission of a proposed judgment supported by findings of fact in the party's favor is required with each summary disposition motion and/or response.

**Trial Exhibits:** Must be marked and served on the other parties at Final Pretrial. An index on a form similar to that contained herein, together with an indexed bench copy of the exhibits shall be left with the Court at the time of the final pretrial conference. If exhibits cannot conveniently be copied, they should still be included on the index. Plaintiff's exhibits are to be identified with **numbers** and defendant's exhibits with **letters**. Disputed exhibits shall be ruled upon at final pretrial. No further exhibits shall be admitted at trial except for good cause shown.

**Special voir dire** requests must be submitted, in writing, before the close of the final pre-trial conference. The Court will conduct the jury voir dire.

**Proposed Jury Instructions:** Jury instructions shall be submitted to the Court no later than the start of trial in hard copy and on disk (Word or WordPerfect) **ONLY**.

Instructions shall be full text, double spaced, one instruction per page with no firm names or case caption. Each instruction shall be complete for the specific case, ready for presentation to the jury. Attorneys should confer in an attempt to agree on one set of standard instructions. Disputed instruction shall be noted as such. Additional instructions may be submitted if factual development requires the same.

**In non-jury cases:** The parties shall submit the following on or before the start of trial, in both hard copy and disk (Word or WordPerfect) **ONLY**:

- ✓ A proposed statement of facts to be used by the Court in deciding factual disputes, with reference to the witness from whom the testimony will come.
- ✓ A proposed final order.



David J. Reader  
Circuit Court Judge

Revised 01/07

I certify the Plaintiff/Third Party Plaintiff has been served:

\_\_\_ 1. By Ordinary Mail     2. Personally    \_\_\_ 3. By Attorney Mailbox

8/15/08  
Date

MB  
Clerk/Assignment Clerk

Revised 01/07

44<sup>th</sup> CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON  
 DAVID J. READER, CIRCUIT COURT JUDGE

\_\_\_\_\_  
 Plaintiff,  
 v  
 \_\_\_\_\_  
 Defendant.

Case No. \_\_\_\_\_

Page No. \_\_\_\_\_

**EXHIBIT RECORD** for \_\_\_\_\_  
 (Plaintiff/Defendant)

Date	Exhibit No/Ltr	Description	Marked	Received

**WITNESS LIST** for \_\_\_\_\_  
 (Plaintiff/Defendant)

Name	Address	Purpose of Testimony	Live or Video

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature of (Plaintiff/Defendant) Attorney

44<sup>th</sup> CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON  
DAVID J. READER, CIRCUIT COURT JUDGE  
Civil Pretrial Statement of \_\_\_\_\_  
Plaintiff/Defendant

\_\_\_\_\_,  
Plaintiff,  
v  
\_\_\_\_\_,  
Defendant.

Case No. \_\_\_\_\_

BRIEF STATEMENT OF FACTS

LEGAL BASIS FOR \_\_\_\_\_ POSITION

Plaintiff's/Defendant's

(Please set forth the "elements" of each legal theory you assert [e.g., defendant's affirmative defenses] and cite the controlling authorities.)

ITEMIZATION OF DAMAGES AND AUTHORITIES

FINDINGS OF FACT

(In non-jury cases - state facts Court must find in order for you to prevail. MCR 2.517)

MISCELLANEOUS

- a) Estimated trial time for Plaintiff's proofs: \_\_\_\_\_
- b) Estimated trial time for Defendant's proofs: \_\_\_\_\_
- c) Is Mediation agreeable in this case? \_\_\_\_\_
- d) Is settlement possible? \_\_\_\_\_ Probable? \_\_\_\_\_
- e) Jury trial \_\_\_\_\_ Non-jury trial \_\_\_\_\_ Fee paid by \_\_\_\_\_

\_\_\_\_\_  
Attorney signature

Court Address:  
204 S. Highlander Way, Suite 5, Howell, MI 48843

Court Telephone No.  
517-546-9816

Plaintiff name(s), address(es), and telephone no.(s)

Defendant name(s), address(es), and telephone no(s).

V

Plaintiff attorney, bar no., address, and telephone no.

Defendant attorney, bar no., address, and telephone no.

**IT IS ORDERED:**

1. This case is ordered to mediation under MCR 2.411(A)(2)  
 a. by agreement of the parties.  
 b. on the court's own motion.
2. The mediator will be:  
 a. \_\_\_\_\_  
Name of mediator  
 b. The ADR clerk shall assign one as provided by the court's alternative dispute resolution plan.
3. Mediation must be completed within 30 60 90 \_\_\_\_\_ days of the date this order is entered. The mediator shall promptly confer with the parties to schedule mediation within the deadline.
4. The costs of mediation shall be divided by the parties on a pro-rata basis unless otherwise agreed to by the parties or ordered by the court or, for persons unable to pay for mediation, as provided by the court's alternative dispute resolution plan.
5. Persons with authority to settle the case, including the parties to the action, their agents, representatives of lien holders, and representatives of insurance carriers shall be present at the mediation. The parties must provide to the mediator, as soon as possible, the names of the above mentioned individuals.
6. The attorneys who intend to try the case shall attend the mediation.
7. The parties shall ensure that the Mediator provides, in writing, mediation results pursuant to 2.411(C)(3).

\_\_\_\_\_  
Date

\_\_\_\_\_  
**David J. Reader**  
Circuit Judge

Approved as to form and content:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON

JOHN BEAUCHAMP, an individual, and  
JOHN NAGEL, an individual

No. 08-23806- CZ

HON. DAVID J. READER

Plaintiffs,

v

GENOA TOWNSHIP, a Michigan municipal  
corporation, BOARD OF COUNTY ROAD  
COMMISSIONERS OF THE COUNTY OF  
LIVINGSTON, a Michigan municipal  
corporation, and CENTER MANAGEMENT  
SERVICES, INC., a Michigan corporation

Defendants.

---

Roger L. Myers (P49186)  
Eric C. Jones (P66364)  
MYERS & MYERS, PLLC  
Attorneys for Plaintiffs  
8163 Grand River, Suite 400  
Brighton, MI 48114  
(810) 229-6620

---

**PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION, INTERROGATORIES,  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS  
TO DEFENDANT, GENOA TOWNSHIP**

**NOW COME** Plaintiffs, JOHN BEAUCHAMP and JOHN NAGEL ("Plaintiffs"), by and through their counsel, MYERS & MYERS, PLLC, and pursuant to MCR 2.309, 2.310, and 2.312, submits their First Set of Requests for Admission, Interrogatories, and Requests for Production of Documents to Defendant, Genoa Township ("Township"). The information sought shall be answered separately and fully, in writing, under oath, and the answers thereto must be served upon the undersigned attorneys for Plaintiffs within forty-two (42) days from the date of service of the Requests for Admissions, Interrogatories, and Request Production of Documents. These Requests for Admissions, Interrogatories, and Request for Production of Documents shall be deemed continuing to the extent allowed by the Michigan Court Rules, and supplementary



answers from Defendant shall be required immediately if the Township, directly or indirectly, obtains further or different information from the time of the Township's responses hereto are set forth to the time of trial in this action.

### **DEFINITIONS AND INSTRUCTIONS**

The following definitions and terms will be the meaning of the following defined terms in the Requests and Interrogatories hereafter set forth.

1. The term "address" or "location," as hereafter used, shall mean the last known address or location, including the street number, the street name, the unit number (if applicable), the city, the state, and the zip code.
2. The term "Complaint," as hereafter used, shall mean, unless otherwise specifically noted, the Complaint filed by Plaintiffs in the above-captioned action.
3. The term "person," as hereafter used, shall mean any natural person, firm, corporation, group, organization, association, partnership, entity, or public agency.
4. The term "document(s)," as hereafter used, shall mean all written and other printed matter of every kind, whether an original, carbon copy, photo static or xerographic copy, digital copy, or other copy, including but not limited to, electronic mail correspondence, ledgers, books, records, statements, minutes, letters, memoranda, reports, lists, studies, agreements, printouts, telegrams, pamphlets, messages, notes, diary and calendar entries, maps, charts, tabulations, press releases, test reports, notations, summaries, pleadings, court orders, judgments, and any other written, recorded, typewritten or imprinted item of any type or kind, having corporeal existence, and in any language, and records or transcripts of meetings, conferences, and telephone or other conversations or communications in the possession, custody or control of the Township. The term "documents" shall also mean and include non-printed matter such as voice recordings, and reproductions, film impressions, photographs, negatives, slides, microfilms, microfiches and other things that document or record ideas, words or impressions. The term "documents" further shall mean and include all punch cards, tapes, discs, or recordings used in electronic data processing, together with the programming instructions and other written materials necessary to understand or use such punch cards, tapes, discs or other recordings; and further shall mean and include such data in electronic or other form that can be printed out or reduced to

readable or usable form through proper programming or decoding of electronic or computer bank information.

If any of the requests include or relate to documents which Township claims are privileged, Township shall specify as to each such document:

- a. The form of the document;
  - b. The date the document was prepared;
  - c. The person who prepared the document;
  - d. The person to whom the document was addressed;
  - e. All persons to whom the document or copies of the document were or are believed to have been delivered;
  - f. A general description of the subject matter of the document; and,
  - g. The present location of all known copies of the document,
- including the identity of the person having possession of the document and copies.

5. The term "oral communication," as hereafter used, shall mean any form of communication other than by document.

6. The term "identify" or "identity," as used hereafter, shall mean:

As to Natural Persons: To state the full name; present employer; business address; home address; telephone number; and any assumed names.

As to Persons Other Than Natural Persons: To state the full name; address; telephone number; year of incorporation or formation; any present or past assumed names; and principal place of business.

As to Documents: To state:

- a. The name and type of documents;
- b. The date;
- c. The identity and name of the person or persons who prepared the document or caused the document to be prepared;
- d. The identity of the person or persons to whom the document was addressed or directed, or otherwise how it was directed;
- e. The identity of the recipient;
- f. A summary of the substantive content of the document;

- g. Its present location; and,
- h. The name of the person who is its present custodian; OR to attach a

copy of the document to answers to these Interrogatories. If any such document was, or is no longer in the possession of the Township, or subject to the control of the Township, state with whom and where it is presently. If any such document has been destroyed, state when such document was destroyed, who destroyed it, and why the document was destroyed.

As to Oral Communications: To state:

- a. The date of communication;
- b. The identity of the person or persons initiating the communication;
- c. The identity of all persons involved in or present during the communication;
- d. Where the communication took place; and
- e. A summary of the content of the oral communication.

7. The term "specify," as hereafter used, shall mean:

- a. To describe fully and in detail by reference to underlying facts rather than by reference to ultimate facts or conclusions of fact or law;
- b. Where applicable, to particularize as to time, place and manner; and,
- c. To set forth all relevant facts necessary to the complete understanding of the act, process, event or thing in question.

8. When appropriate in these Interrogatories, the singular form shall be interpreted as plural or vice versa; and in similar fashion, the use of a masculine form of a pronoun shall be construed to also include within its meaning the feminine form of the pronoun and vice versa; and in similar fashion, the use of any tense of a verb shall be construed to also include within its meaning all other tenses of the verb so used.

9. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these Interrogatories any information which may otherwise be construed to be outside of their scope.

10. "Plaintiffs" as hereafter used, shall mean, unless otherwise specifically noted, John Beauchamp and John Nagel, the Plaintiffs in this action.

11. "Beauchamp" as hereafter used, shall mean, unless otherwise specifically noted, John Beauchamp, a Plaintiff in this action.

12. "Nagel" as hereafter used, shall mean, unless otherwise specifically noted, John Nagel, a Plaintiff in this action

13. "Township" as hereafter used, shall mean, unless otherwise specifically noted, Genoa Township, a Defendant in this action.

14. "Road Commission" as hereafter used, shall mean, unless otherwise specifically noted, the Board of County Road Commissioners for the County of Livingston, a Defendant in this action.

15. "Center" as hereafter used, shall mean, unless otherwise specifically noted, Center Management Services, Inc., a Defendant in this action.

16. "Plaintiffs' Property" as hereafter used, shall mean, unless otherwise specifically noted, a certain parcel of real property owned by Plaintiffs, which is located in Genoa Township, and consisting of vacant land with approximately 150 feet of frontage along West Grand River Avenue, and described more particularly in Exhibit B of Plaintiffs' Complaint.

17. "Sherwin Williams Parcel" as hereafter used, shall mean, unless otherwise specifically noted, a two-acre parcel of real property owned by Defendant, Center, which is east of and adjacent to Plaintiffs' Property, and which includes a Sherwin Williams store with direct drive access to West Grand River Avenue.

18. "Guastello" as hereafter used, shall mean, unless otherwise specifically noted, Thomas Guastello, the president and registered agent of Defendant Center.

19. "Planning Commission" as hereafter used, shall mean, unless otherwise specifically noted, the Genoa Township Planning Commission

20. "McKenna" as hereafter used, shall mean, unless otherwise specifically noted, McKenna Associates, Inc.

## **REQUESTS TO ADMIT/INTERROGATORIES/DOCUMENT REQUESTS**

### **Request to Admit No. 1/Interrogatory No. 1/Request to Produce 1:**

Admit that in 2005, the Road Commission denied Plaintiffs' application for a driveway to permit direct access from Plaintiffs' Property to Grand River. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

### **Request to Admit No. 2/Interrogatory No. 2/Request to Produce 2:**

Admit that, due to the site distance issue relative to Plaintiffs' Property and the requirements of the Grand River Avenue Corridor Plain and Township Zoning Ordinance then in effect, the approval of the necessary access to Grand River for Plaintiffs' Property was specifically addressed by the Township in connection with the approval of the adjacent Sherwin Williams store in 1995. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;

- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 3/Interrogatory No. 3/Request to Produce 3:**

Admit that McKenna recommended in a July 25, 1995 Site Plan Review letter as a condition to the Township's approval of the site plan for the Sherwin Williams store that "[a] service drive be installed in the front or rear of the building that can be linked with future development to the east and west of the subject lot as specified in the Grand River Corridor Plan and the Zoning Ordinance" and that "[t]he applicant should provide a written access easement for shared access with adjacent parcels." If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 4/Interrogatory No. 4/Request to Produce 4:**

Admit that the Grand River Corridor Plan and the Township Zoning Ordinance in effect at the time of the approval of the proposed Sherwin Williams development required that Plaintiffs' Property have access to Grand River Avenue through an access easement over the Sherwin Williams Parcel. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 5/Interrogatory No. 5/Request to Produce 5:**

Admit that attached to the Complaint as Exhibit D is a true and authentic copy of the August 22, 1995 Township Planning Commission Meeting minutes. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;

- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 6/Interrogatory No. 6/Request to Produce 6:**

Admit that as a condition to the approval of the site plan for the development of the Sherwin Williams Parcel, the Planning Commission mandated the creation of an easement over the Sherman Williams parcel in a form that was acceptable to the Township Attorney, which would serve as the Grand River access to Plaintiffs' adjacent property. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 7/Interrogatory No. 7/Request to Produce 7:**

Admit that during the August 22, 1995 meeting, the Planning Commission further conditioned approval of the Sherwin Williams site plan on the Township Board's approval of the



impact assessment as required by the Township's zoning ordinance. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 8/Interrogatory No. 8/Request to Produce 8:**

Admit that attached to the Complaint as Exhibit E is a true and authentic copy of the September 5, 1995 Township Board Meeting minutes. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 9/Interrogatory No. 9/Request to Produce 9:**

Admit that during its meeting on September 5, 1995, the Township Board approved the impact assessment for the Sherwin Williams Parcel on the sole specific condition that an easement to provide Plaintiffs' Property with access to Grand River be approved by the Township attorney and "properly executed" prior to the issuance of a land use permit. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 10/Interrogatory No. 10/Request to Produce 10**

Admit that Plaintiffs were advised by Township manager, Mike Archinal, that their Property possessed access to Grand River Avenue by way of the easement over the Sherwin Williams Parcel. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;

- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 11/Interrogatory No. 11/Request to Produce 11:**

Admit that Plaintiffs' Property possesses a valid and enforceable easement over the Sherwin Williams Parcel to access Grand River Avenue. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 12/Interrogatory No. 12/Request to Produce 12:**

Admit that the easement over the Sherwin Williams Parcel for the benefit of and to provide Grand River access to Plaintiffs' Property adopted by the Township as a condition to the approval of the Sherwin Williams site plan remains unchanged without the mutual consent of the

Township and property owner under MCL 125.286d(3) and 125.286e(3), in effect at the time of site plan approval for the Sherwin Williams Parcel (now found in MCL 125.3504(5) and 125.3501(2), respectively). If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 13/Interrogatory No. 13/Request to Produce 13:**

Admit that the Township has never consented to change the condition attached to the approval of the Sherwin Williams Parcel that Plaintiffs' Property must be granted an easement over the Sherwin Williams Parcel for the benefit of and to provide Grand River Avenue access to Plaintiffs' Property. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 14/Interrogatory No. 14/Request to Produce 14:**

Admit that on or about February 9, 2006, the Township, through attorney Heikkinen, requested that Guastello prepare and record an easement as required by the site plan approval conditions for the Sherwin Williams Parcel. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 15/Interrogatory No. 15/Request to Produce 15:**

Admit that attached to the Complaint as Exhibit F is a true and authentic copy of the December 1, 2006 correspondence from Heikkinen to Guastello. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;

- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 16/Interrogatory No. 16/Request to Produce 16:**

Admit that Guastello refused to comply with Defendant's repeated requests to comply with the requirement to record the easement, in violation of the approved site plan for the Sherwin Williams Parcel. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 17/Interrogatory No. 17/Request to Produce 17**

Admit that Center is currently in violation of the site plan for the Sherwin Williams Parcel. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;

- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 18/Interrogatory No. 18/Request to Produce 18:**

Admit that Plaintiffs' proposals for access to Grand River Avenue through the manufactured housing development to the West have been rejected by both the Road Commission and the owner of the adjacent manufactured housing development. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 19/Interrogatory No. 19/Request to Produce 19:**

Admit that all potential means of Grand River access for Plaintiffs' Property have been precluded by the Defendants in this matter. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial, including a description of the means of access that you believe exists for Plaintiffs' Property;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 20/Interrogatory No. 20/Request to Produce 20:**

Admit that the inaction of the Township in enforcing the condition of site plan approval for the Sherwin Williams Parcel mandating the creation of the Grand River access easement has caused, at least in part, Plaintiffs' inability to access Grand River Avenue from their Property. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;



- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 21/Interrogatory No. 21/Request to Produce 21:**

Admit that Plaintiffs are entitled to a judgment declaring the easement over the Sherwin Williams Parcel to be valid. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 22/Interrogatory No. 22/Request to Produce 22:**

Admit that Plaintiffs possess a constitutionally-protected right to the possession, use, and enjoyment of their Property. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;

- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 23/Interrogatory No. 23/Request to Produce 23:**

Admit that Plaintiffs have a vested right of access from their Property to Grand River. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 24/Interrogatory No. 24/Request to Produce 24:**

Admit that the Township has interfered with Plaintiffs' vested property rights by refusing and /or failing to enforce the site plan approval conditions for the Sherwin Williams

Parcel, thereby depriving Plaintiffs of their right of access to Grand River Avenue. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 25/Interrogatory No. 25/Request to Produce 25:**

Admit that the combined actions of the Township and the Road Commission have effected the total inability to develop or use Plaintiffs' Property in any manner. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Request to Admit No. 26/Interrogatory No. 26/Request to Produce 26:**

Admit that the interference with Plaintiffs' vested property rights by the Township and the Road Commission-directly resulting in Plaintiffs' complete inability to develop or use their Property in any manner-constitutes an inverse condemnation of Plaintiffs' Property for which just compensation is required under the Michigan Constitution. If your answer is anything other than an unqualified admission:

- a. Describe in detail the basis for your denial;
- b. Identify each person(s) who will provide testimony to support your denial, and further provide for each their title, employer, experience, address and phone number;
- c. Describe the testimony you expect from each witness on this issue;
- d. Identify separately and attach to these answers a copy of any and all tape recordings, documents, interoffice memos, minutes, notes, correspondence or other writings that support your denial.

**Response:**

**Interrogatory No. 27:**

Identify each and every person that the Township may call as a lay witness at the trial of this matter. In your answer, please include:

- a. Name, address and telephone number;
- b. Employer address and telephone number;
- c. Summary of expected testimony of each witness;
- d. Identify and produce each and every document upon which each witness may rely in support of their testimony.

**Response:**

**Interrogatory No. 28:**

Identify each and every person the Township may call as an expert witness at the trial of this matter and for each such person state:

- a. His or her full and complete name and address;
- b. When that person was first contacted with regard to this case;
- c. Attach a copy of his or her curriculum vitae or, in the alternative, state all the qualification including education, professional experience, etc. which you believe qualifies said person to give expert opinion testimony regarding this case.

**Response:**

**Interrogatory No. 29:**

State whether any expert witness named above has prepared and/or issued any written or oral report or evaluation and if so, state:

- a. Whether it was written or oral;
- b. To whom the written or oral report was issued;
- c. Attach a copy of the report to these answers if it was in writing.

**Response:**

**Interrogatory No. 30:**

Describe in detail the subject matter and the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

**Response:**

**Interrogatory No. 31:**

Identify all persons, other than those identified in response to previous interrogatories that have knowledge and/or information regarding this matter, upon whom you intend to rely in support of your allegations and/or defenses, and for each such person provide the following information:

- a. State his/her name, address and telephone number for business and residence;
- b. Identify each fact of which you believe him/her to have knowledge and which you believe to be relevant to this matter;
- c. Do you believe that you may call such person to give testimony at the trial?
- d. What is the testimony you expect each such person to provide?

**Response:**

**Request to Produce 27:**

Produce all documents and all other tangible items which the Township may seek to introduce as an exhibit in this matter.

**Response:**

**Interrogatory No. 32:**

State the name, business address, business telephone number and employer of each and every person assisting in answering these Requests for Admissions, Interrogatories and Requests for Production of Documents and also state which Request for Admissions, Interrogatory or Request for Production each individual assisted in answering.

**Response:**

Dated: August 20, 2008

MYERS & MYERS, PLLC  
Attorneys for Plaintiffs,  
John Beauchamp and John Nagel

By: 

Roger L. Myers (P49186)  
Eric C. Jones (P66364)  
8163 Grand River Ave., Ste. 400  
Brighton, MI 48114  
810/229-6620

Delridge Corporation  
(800) 530-2255  
Approved, SCAO

Original - Court  
1st copy - Defendant

2nd copy - Plaintiff  
3rd copy - Return

STATE OF MICHIGAN 44 <sup>th</sup> JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS AND COMPLAINT	CASE NO. 08- 23806-CZ
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Court address: 204 S. Highlander Way, Howell, MI 48843  
 Court telephone no.: 517-546-9816

Plaintiff name(s), address(es) and telephone no(s).  
 John Beauchamp, an individual and  
 John Nagel, an individual

V

Defendant name(s), address(es), and telephone no(s).  
 Genoa Township  
 2911 Dorr Road  
 Brighton, MI 48116

**JUDGE READER**  
P-27877

Plaintiff attorney, bar no., address, and telephone no.  
 Roger L. Myers (P49186)  
 Myers & Myers, PLLC  
 8163 Grand River, Suite 400, Brighton, MI 48114  
 810-229-6620

**SUMMONS NOTICE TO THE DEFENDANT:** In the name of the people of the State of Michigan, you are notified:  
 1. You are being sued.  
 2. **YOU HAVE 21 DAYS** after receiving this summons to file an answer with the court and serve a copy on the other party or to take other lawful action (28 days if you were served by mail or you were served outside this state).  
 3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued 8-15-08	This summons expires* 11-13-08	Court clerk 	MARGARET M. DUNLEAVY CLERK OF THE CIRCUIT COURT HOWELL, MICHIGAN
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\*This summons is invalid unless served on or before its expiration date.

**COMPLAINT** *Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.*

**Family Division Cases**

There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.  
 An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in \_\_\_\_\_ Court.  
 The action  remains  is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
------------	-------	---------

**General Civil Cases**

There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.  
 A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in \_\_\_\_\_ Court.  
 The action  remains  is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
------------	-------	---------

**VENUE**

Plaintiff(s) residence (include city, township, or village) Livingston County	Defendant(s) residence (include city, township, or village) Livingston County
Place where action arose or business conducted Livingston County	

August 14, 2008  
 Date  
 Signature of attorney/plaintiff: Roger L. Myers P49186

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you to fully participate in court proceedings, please contact the court immediately to make arrangements.





STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF LIVINGSTON

JOHN BEAUCHAMP, an individual, and  
JOHN NAGEL, an individual

Plaintiffs,

v

GENOA TOWNSHIP, a Michigan municipal  
corporation, BOARD OF COUNTY ROAD  
COMMISSIONERS OF THE COUNTY OF  
LIVINGSTON, a Michigan municipal  
corporation, and CENTER MANAGEMENT  
SERVICES, INC., a Michigan corporation

Defendants.

---

Roger L. Myers (P49186)  
Eric C. Jones (P66364)  
MYERS & MYERS, PLLC  
Attorneys for Plaintiffs  
8163 Grand River, Suite 400  
Brighton, MI 48114  
(810) 229-6620

---

No. 08-

23806

- CZ

Hon.

JUDGE READER  
P-27877

TRUE COPY  
MARGARET M. SHERMAN  
LIVINGSTON COUNTY CLERK

**COMPLAINT AND JURY DEMAND**

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this complaint pending in this court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge.

Plaintiffs John Beauchamp and John Nagel ("Plaintiffs"), by and through their attorneys,

Myers & Myers, PLLC, state for their Complaint against Defendants as follows:

## PARTIES, JURISDICTION AND VENUE

1. Plaintiffs are the fee simple owners of a certain parcel of real property located in Genoa Township, Livingston County, Michigan (“Plaintiffs’ Property”).
2. Defendant Genoa Township (“the Township”) is a Township organized under the laws and statutes of the State of Michigan, located in the County of Livingston.
3. Defendant Board of County Road Commissioners for the County of Livingston (“the Road Commission”) is a governmental agency which has jurisdiction over the county roads in Livingston County pursuant to the Michigan Constitution and statutes.
4. Defendant Center Management Services, Inc. (“Center”) is a Michigan corporation located at 300 Park Street, Suite 410, Birmingham, MI 48009, and is the fee simple owner of a certain parcel of real property located in Genoa Township east of and adjacent to Plaintiffs’ Property.
5. This Complaint seeks declaratory and equitable relief, as well as monetary damages. The amount in controversy exceeds \$25,000, and jurisdiction and venue are otherwise properly vested in this Court pursuant to MCL 600.605, MCL 600.1615, and MCR 2.605.

## COMMON ALLEGATIONS

6. Plaintiffs incorporate and reallege the preceding paragraphs as if fully restated herein.
7. Plaintiffs’ Property consists of vacant land with approximately 150 feet of frontage along West Grand River Avenue and located in Genoa Township. (See Exhibit A, Aerial photograph of Plaintiffs’ Property; see also Exhibit B, Legal description of Plaintiffs’ Property).

8. Center is the owner of a two-acre parcel of property which is east of and adjacent to Plaintiffs' Property, and which includes a Sherwin Williams store with direct driveway access to West Grand River Avenue. This parcel of land will hereafter be referred to as "the Sherwin Williams parcel." (See Exhibit A).

9. Thomas Guastello ("Guastello") is the president and registered agent of Center.

10. In late 2004, Plaintiffs commenced efforts to secure the necessary approvals for the development of a multiple building office/commercial complex on their Property, including efforts to obtain the necessary approvals for access to Grand River Avenue.

11. In 2005, the Road Commission denied Plaintiffs' application for a driveway permit to provide direct access from Plaintiffs' Property to Grand River due to the inability to meet the minimum site distance requirements of the Road Commission regulations.

12. Through further investigation of the Grand River access issue, Plaintiffs learned that, due to the site distance issue and the requirements of the Grand River Avenue Corridor Plan and Township zoning ordinance then in effect, the approval of the necessary access to Grand River for Plaintiffs' Property was specifically addressed by the Township in connection with the approval of the adjacent Sherwin Williams store in 1995.

13. In 1995, the site plan for the proposed Sherwin Williams development was submitted for approval to the Township by the previous owners of the Sherwin Williams parcel, WXZ Development.

14. In or around July of 1995, the Genoa Township Planning Commission ("Planning Commission") hired McKenna Associates, Inc. ("McKenna") to review the site plan for the proposed Sherwin Williams development and determine whether the site plan complied with the

Grand River Avenue Corridor Plan and the Township zoning ordinance then in effect. (See Exhibit C, July 25, 1995 Site Plan Review Letter from McKenna).

15. McKenna recommended as a condition to the Township's approval of the site plan for the Sherwin Williams store that "[a] service drive be installed in the front or rear of the building that can be linked with future development to the east and west of the subject lot as specified in the Grand River Corridor Plan and the Zoning Ordinance" and that "[t]he applicant should provide a written access easement for shared access with adjacent parcels." (See Exhibit C).

16. Consistent with McKenna's recommendations, as a condition to the approval of the site plan for the development of the Sherwin Williams parcel, the Planning Commission mandated the creation of an easement over the Sherman Williams parcel in a form that was acceptable to the Township Attorney, Richard A. Heikkinen, which would serve as the Grand River access to Plaintiffs' adjacent property. (See Exhibit D, August 22, 1995 Township Planning Commission minutes).

17. At the August 22, 1995 meeting, the Planning Commission further conditioned approval of the site plan on the Township Board's approval of the impact assessment as required by the Township's zoning ordinance. (See Exhibit D).

18. At its regular meeting on September 5, 1995, the Township Board approved the impact assessment for the Sherwin Williams parcel on the sole specific condition that an easement to provide Plaintiffs' Property with access to Grand River be approved by Mr. Heikkinen and "properly executed" prior to the issuance of a land use permit. (See Exhibit E, September 5, 1995 Township Board minutes).

19. Although approval of the development and use of the Sherwin Williams parcel was expressly conditioned upon the granting and execution of an easement over such parcel to provide Grand River access for Plaintiffs' Property, a written easement to that effect was, upon information and belief, never prepared and recorded with the Livingston County Register of Deeds.

20. In the course of their investigation of the Grand River access issue, and consistent with the condition attached to the approval of the site plan for the Sherwin Williams parcel, Plaintiffs were advised by Township Manager Mike Archinal that their Property possessed access to Grand River Avenue by way of the easement over the Sherwin Williams parcel.

21. As a result, on or about March 1, 2006, Plaintiff Beauchamp met with Guastello to discuss the implementation of the easement over the Sherwin Williams parcel to provide Grand River access to Plaintiffs' Property.

22. Guastello, as the authorized agent of Center, refused to recognize the validity of the easement based on his claim that the easement is not referenced on the documents that he received when Center purchased the property from the original owner of the Sherwin Williams parcel, and he otherwise had no knowledge of the easement at the time of the purchase.

23. The law in Michigan is clear that conditions attached to the approval of a site plan by the Township – such as the easement over the Sherwin Williams parcel for the benefit of and to provide Grand River access to Plaintiffs' Property - are part of the public legal record of the approval process and shall remain unchanged without the mutual consent of the Township and property owner. See MCL 125.286d(3) and 125.286e(3) (in effect at the time of site plan

approval for the Sherwin William parcel, now found in MCL 125.3504(5) and 125.3501(2), respectively).

24. Pursuant to the statutory authority establishing that the above-referenced site approval conditions are part of the public legal record of the approval process, the fact that an express easement was not recorded and Mr. Guastello may not have had actual knowledge of the easement when he purchased the Sherwin Williams parcel is irrelevant to the enforceability of the easement over such parcel to provide Grand River access to Plaintiff's property.

25. On or about February 9, 2006, in recognition of the clarity of Michigan law on this issue and the validity of the easement, the Township, through attorney Heikkinen, requested that Guastello prepare and record an easement as required by the site plan approval conditions.

26. Guastello refused to comply with the Township's request.

27. In another letter from Heikkinen to Guastello dated December 1, 2006, Heikkinen further requested that Guastello prepare and record an easement and stated that "until the easement is recorded, you are in violation of the approval of your site plan. I do not want to take any legal action and would like to close this file as soon as possible." (See Exhibit F, December 1, 2006 correspondence).

28. Guastello again refused to comply with the requirement to record the easement, in violation of his site plan.

29. The Township has refused to take any further action to enforce the easement despite acknowledging its enforceability and Center's violation of its site plan.

30. Because of the inaction of the Township in enforcing its own ordinance and site plan approval conditions and the refusal of Guastello to recognize the easement, Plaintiffs

submitted proposals for alternate access to Grand River through a drive utilized by the manufactured housing development located to the west of Plaintiffs' Property.

31. Plaintiffs' proposals for access to Grand River through the manufactured housing development to the west have been rejected by both the Road Commission and the owner of the adjacent development.

32. Accordingly, all possible avenues of Grand River access for Plaintiffs' Property have been foreclosed by the Defendants in this matter.

33. In a final effort to avoid litigation of this matter, on or about May 30, 2008, Plaintiffs' counsel sent a letter to both Heikkinen and Guastello demanding the execution of all documents, including an easement over the Sherwin Williams parcel, to secure the necessary approvals for access from Plaintiffs' Property to Grand River. (See Exhibit G, Plaintiffs' Demand Letter).

34. In response to Plaintiffs' demand letter, Guastello reaffirmed Center's refusal to recognize Plaintiffs' easement over the Sherwin Williams parcel. (See Exhibit H, June 19, 2008 Correspondence from Guastello).

35. For its response to Plaintiffs' demand letter, the Township inexplicably reversed its previous position regarding the enforceability of the easement and is unwilling to take any action to compel Guastello to comply with the site plan requirements for the Sherwin Williams parcel. (See Exhibit I, July 22, 2008 Correspondence from Heikkinen).

36. As a result of the Road Commission's rejection of Plaintiffs' driveway permit and alternate access proposals, the inaction of the Township in enforcing the site plan requirement



mandating the easement, and the unjustified refusal of Center to recognize the validity of the easement, Plaintiffs have been unable to develop or use their property in any manner.

37. As a result of Defendants' actions, Plaintiffs have incurred and continue to incur substantial monetary damages.

**COUNT I - DECLARATORY AND EQUITABLE RELIEF REGARDING THE  
VALIDITY OF PLAINTIFFS' ACCESS EASEMENT OVER THE SHERWIN  
WILLIAMS PARCEL**

38. Plaintiffs incorporate and reallege the preceding paragraphs as if fully restated herein.

39. As a condition to the approval of the site plan for the development of the Sherwin Williams parcel, the Township Planning Commission mandated the creation of an easement over the Sherman Williams parcel, which would serve as the Grand River access to Plaintiffs' adjacent property. (See Exhibit D).

40. Furthermore, at its regular meeting on September 5, 1995, the Township Board approved the impact assessment for the Sherwin Williams parcel on the sole specific condition that an easement to provide Plaintiffs' Property with access to Grand River be "properly executed" prior to the issuance of a land use permit. (See Exhibit E).

41. Although approval of the development and use of the Sherwin Williams parcel was expressly conditioned upon the granting and execution of an easement over such parcel to provide Grand River access for Plaintiffs' property, a written easement to that effect was, upon information and belief, never prepared and recorded.

42. Pursuant to Michigan law, conditions attached to the approval of a site plan by the Township – such as the easement over the Sherwin Williams parcel for the benefit of and to

provide Grand River access to Plaintiffs' Property - are part of the public legal record of the approval process and shall remain unchanged without the mutual consent of the Township and property owner. See MCL 125.286d(3) and 125.286e(3) (in effect at the time of site plan approval for the Sherwin William parcel, now found in MCL 125.3504(5) and 125.3501(2), respectively).

43. Accordingly, the easement over the Sherwin Williams parcel to provide Grand River access to Plaintiff's property is enforceable regardless of the fact that an express easement was not recorded and regardless of any lack of actual knowledge of the easement by Center when it purchased the Sherwin Williams parcel.

44. The Township has acknowledged the validity of the easement - and Center's violation of the approval conditions for the Sherwin Williams parcel - yet has refused to take further action to compel enforcement of the easement or Center's compliance with the site plan approval conditions. (See Exhibit F).

45. To date, Center remains in violation of the validly imposed site plan approval conditions due to its refusal to recognize Plaintiffs' easement over the Sherwin Williams parcel. (See Exhibit H).

46. Because approval for the development of the Sherwin Williams parcel was expressly conditioned upon the creation of an easement over the Sherwin Williams parcel granting Plaintiffs' Property access to Grand River, and Michigan law provides that conditions attached to the approval of a site plan by the Township are part of the public legal record of the approval process and must remain unchanged without the mutual consent of the Township and property owner, Plaintiffs are entitled to a judgment declaring the easement over the Sherwin

Williams parcel to be valid and enjoining Defendants from interfering with Plaintiffs' right of access to Grand River Avenue through the Sherwin Williams service driveway.

47. There exists an actual controversy between the parties regarding the validity of the easement, for which Plaintiffs are entitled to a declaratory judgment under MCR 2.605.

48. Pursuant to MCR 2.605(D), Plaintiffs request a speedy hearing regarding their request for declaratory relief regarding the validity of the easement.

**WHEREFORE**, Plaintiffs John Beauchamp and John Nagel respectfully pray that this Honorable Court enter a judgment as follows:

- A. Declaring Plaintiffs' access easement over the Sherwin Williams parcel to be valid and enforceable;
- B. Ordering the execution by Defendants of all documents, including an easement over the Sherwin Williams parcel, to secure the necessary approvals for access from Plaintiffs' Property to Grand River Avenue;
- C. Enjoining Defendants from interfering with Plaintiffs' right of access to Grand River Avenue through the Sherwin Williams service driveway;
- D. Awarding Plaintiffs all attorneys' fees and costs incurred in securing such relief; and
- E. Awarding Plaintiff all other relief which this Court deems just and equitable.

**COUNT II – TAKING BY INVERSE CONDEMNATION**

49. Plaintiffs incorporate and reallege the preceding paragraphs as if fully restated herein.

50. Plaintiffs possess a constitutionally-protected right to the possession, use and enjoyment of their Property.

51. Furthermore, as the owners of Property directly abutting a public roadway, Plaintiffs have a vested right of access to that roadway.

52. Through the enforcement of its regulations, the Road Commission has interfered with Plaintiffs' vested property rights by denying Plaintiffs' application for a driveway permit to provide direct access from Plaintiffs' Property to Grand River, and rejecting Plaintiffs' proposal for alternate access to Grand River by an access easement through the manufacturing housing development to the west of Plaintiffs' Property.

53. The Township also interfered with Plaintiffs' vested property rights by refusing and/or failing to enforce the site plan approval conditions for the Sherwin Williams parcel, thereby depriving Plaintiffs of their right of access to Grand River.

54. The combined actions of the Road Commission and the Township have affected the total inability to develop or use Plaintiffs' Property in any manner.

55. The interference with Plaintiffs' vested property rights by the Road Commission and the Township – directly resulting in Plaintiffs' complete inability to develop or use their Property in any manner – constitutes an inverse condemnation of Plaintiffs' Property for which just compensation is required under the Michigan Constitution.

56. As a direct and proximate of this unconstitutional inverse condemnation by the Road Commission and the Township, Plaintiffs have incurred, and will continue to incur, substantial damages.

**WHEREFORE**, Plaintiffs pray that this Honorable Court enter a Judgment in their favor and against Defendants Road Commission and Township, as follows:

- A. Awarding Plaintiffs compensatory and exemplary damages, plus attorneys' fee, costs and interest as a result of the inverse condemnation of Plaintiffs' Property; and
- B. Awarding Plaintiffs all other relief which this Court deems just and equitable.

**JURY DEMAND**

NOW COME Plaintiffs, John Beauchamp and John Nagel, by their counsel, Myers & Myers, PLLC, and hereby demand a trial by jury.

Respectfully submitted,

MYERS & MYERS, PLLC  
Attorneys for Plaintiffs

By: 

Roger L. Myers (P49186)  
Eric C. Jones (P66364)  
8163 Grand River, Suite 400  
Brighton, MI 48114  
(810) 229-6620

Dated: August 14, 2008



GRAND RIVER

GRAND BEACH DR

WELDON WAY

Sylvan Glen  
MHP

HARMONY WAY

Sherwin  
Williams

PAMIA WTR

Subject Parcel

BISSAYNE BLVD

MAYHINSKY DR

RINK DR

RINK DR

**EXHIBIT A**  
**LEGAL DESCRIPTION**

Commitment No.: CM-480165

Land in the Township of Genoa, Livingston County, Michigan, described as follows:

Part of the Northeast 1/4 of Section 14, Town 2 North, Range 5 East, Genoa Township, Livingston County, Michigan, described as follows: Beginning at a point on the North line of Grand Beach No. 3, according to the plat thereof recorded in Liber 16 of Plats, pages 9 and 10, Livingston County Records, distant North 2 degrees 11 minutes East (recorded North 2 degrees 24 minutes 32 seconds East), along the East line of said Section 14 and East line of said Grand Beach No. 3, 876.50 feet and North 87 degrees 49 minutes West (recorded North 87 degrees 35 minutes 28 seconds West), 892.34 feet from the East 1/4 corner of Section 14; thence North 87 degrees 49 minutes West along said North line of Grand Beach No. 3 (recorded North 87 degrees 35 minutes 28 seconds West) 62.66 feet to the Northwest corner of said Grand Beach No. 3; thence South 27 degrees 50 minutes 49 seconds West (recorded South 28 degrees 08 minutes West), along the Westerly line of Grand Beach No. 3, 247.35 feet to the Southwest corner of Rink Drive; thence North 51 degrees 29 minutes 03 seconds West, (recorded North 50 degrees 40 minutes West) along the Northerly line of Plat of Grand Beach, according to the plat thereof recorded in Liber 2 of Plats, page 5, Livingston County Records, 285.34 feet to the point of intersection of the Easterly line of Grand Beach Drive ( a private drive in said Grand Beach Plat); thence North 01 degrees 45 minutes East along the East line of said Grand Beach Drive (33 feet wide), and said Easterly line extended Northerly to the centerline of Grand River Avenue, 1012.04 feet; thence South 64 degrees 11 minutes 16 seconds East along the centerline of Grand River Avenue, 150.0 feet; thence South 01 degrees 45 minutes West, 554.25 feet; thence South 88 degrees 15 minutes East, 105.65 feet; thence South 64 degrees 11 minutes 16 seconds East, 172.35 feet; thence South 01 degrees 45 minutes West, 275.59 feet to the point of beginning.

EXCEPTING THEREFROM the following described parcels:

**PARCEL A:**

Part of the Northeast 1/4 of Section 14, Town 2 North, Range 5 East, Genoa Township, Livingston County, Michigan, described as: Beginning at the Southwest corner of Lot 75, GRAND BEACH NO. 3, according to the plat thereof recorded in Liber 16 of Plats, pages 9 and 10, Livingston County Records; thence South 27 degrees 50 minutes 49 seconds West (recorded South 28 degrees 08 minutes West), along the Westerly Right-of-Way line of Rink Drive (as platted in said Grand Beach No. 3), and said line extended Southwesterly 72.38 feet; thence North 50 degrees 30 minutes West, (recorded North 50 degrees 40 minutes West), along the Northerly Right-of-Way line of Grand Beach Drive (private road) as platted in Plat of Grand Beach, according to the plat thereof as recorded in Liber 2 of Plats, page 5, Livingston County Records, 141.82 feet; thence North 35 degrees 18 minutes 15 seconds East, 71.41 feet; thence South 50 degrees 21 minutes 11 seconds East, 132.41 feet to the point of beginning.

**PARCEL B:**

Part of the Northeast 1/4 of Section 14, Town 2 North, Range 5 East, Genoa Township, Livingston County, Michigan, described as: Beginning at the Southwest corner of Lot 75, GRAND BEACH NO. 3, according to the plat thereof recorded in Liber 16 of Plats, pages 9 and 10, Livingston County Records; thence North 50 degrees 21 minutes 11 seconds West, 132.41 feet; thence South 35 degrees 18 minutes 15 seconds West, 71.41 feet; thence North 50 degrees 30 minutes West, (recorded North 50 degrees 40 minutes West), along the Northerly Right-of-Way line of Grand Beach Drive (private road) as platted in Plat of Grand Beach, according to the plat thereof as recorded in Liber 2 of Plats, page 5, Livingston County Records, 144.48 feet; thence North 1 degree 45 minutes East, along the Easterly Right-of-Way of said Grand Beach Drive, 53.90 feet; thence South 87 degrees 49 minutes East, 337.31 feet to the Northwest corner of said Lot 75; thence South 27 degrees 50 minutes 49 seconds West, (recorded South 28 degrees 08 minutes West), 179.95 feet to the point of beginning.

Tax Item No.: 11-14-200-018-201-47070

RECEIVED

JUL 27 1995

Ans'd

# MCKENNA ASSOCIATES, INCORPORATED

## ■ COMMUNITY PLANNING ■ URBAN DESIGN ■

38955 Hills Tech Drive ▪ Suite 200 ▪ Farmington Hills, MI 48331-3451 ▪ Telephone: (810) 553-0290

July 25, 1995

Planning Commission  
Genoa Township  
2980 Dorr Road  
Brighton, Michigan 48116

**Subject:** #95-09; Site Plan Review: Proposed Sherwin-Williams (site plan dated: 5/15/95).

**Applicant:** WXZ Development, Inc.

**Location:** South side of Grand River Avenue, approximately 150 feet east of Grand Beach Drive

**Existing Zoning:** NSD - Neighborhood Service District

Dear Planning Commission:

At your request, we have reviewed the above referenced site plan, dated 5/15/95, for the construction of 5,000 sq. ft. building to be used as a sales and warehouse facility by Sherwin-Williams retail paint store. The site is located in the Neighborhood Service District (NSD) on the south side of Grand River Avenue, approximately 150 feet east of Grand Beach Drive.

Retail establishments with up to 15,000 square feet gross floor area are permitted uses in the NSD district. Fifty percent (2,500 sq. ft.) of the proposed building will be used for warehousing of paints, thinners, paint removers and painting supplies. Warehousing is not a permitted principal or special land use in the NSD district. The Planning Commission must determine whether the proposed warehousing use (at 50% of the building) is a principal use on the site or accessory and incidental to the proposed retail use.

### BACKGROUND

**Surrounding land:** The land use, zoning and master plan designation for the subject site and surrounding parcels are described in the following table:



	Existing Land Use	Zoning	Master Plan
Site	Vacant	NSD	Neighborhood Commercial
North (across Grand River)	Residential	OSD	Office/Research
East	Vacant	NSD	Neighborhood Commercial
South	Vacant	NSD	Neighborhood Commercial
West	Vacant	NSD	Neighborhood Commercial

**Process/Next Steps:** The applicant is requesting site plan approval from the Planning Commission and approval of the Environmental Impact Assessment from the Township Board. The site plan may be approved with a condition that the Impact Assessment be approved by the Township Board.

**DESIGN COMPLIANCE STANDARDS**

- District/Use:** As requested above, a determination from the Planning Commission is required on whether or not the proposed warehouse use is permitted. In accordance with Section 3.20, no lot may contain more than one principal use.
- Dimensional Standards:** The proposed use and layout was reviewed to the setback standards listed in Article 4, Table 4.4 Dimensional Standards as outlined in the following table:

District	Lot Size		Minimum Yard Setbacks				Max. Lot Coverage	Max. Height
	Lot Area	Width <sup>1</sup>	Front <sup>1</sup>	Side Yard <sup>1</sup>	Rear Yard <sup>1</sup>	Parking Lot <sup>1</sup>		
Neighborhood Service	1 acre <sup>2</sup>	100	20 35 <sup>3</sup>	10 <sup>4</sup>	40	10	Governed by setbacks	20 ft. 1 stories
Provided	1.7 acres	155	80	64 east 28 west	279	20 front	ok	19'-4" 2 stories

Footnotes: 1 Measured in Feet.  
 2 Required for Special Land Use.  
 3 If no parking in front yard.  
 4 Each side.

The proposed use and subject site are in compliance with the dimensional standards as stated above.

- Impact on surrounding land uses and zoning:** *The Zoning ordinance requires that the site plan be harmonious with, and not harmful, injurious, or objectionable to the adjacent uses.* The subject site will be the first development on the south side of Grand River Avenue between Grand Beach Drive and Heubert Road. Careful attention must be made to the setback and orientation of the building, parking, and access aisles.
- Views and building elevations:** *The ordinance requires that the placement and height of buildings, structures and parking shall preserve existing views. It also requires that any proposed architecture complement the character of the surrounding area.* Buildings should be designed to blend harmoniously into the streetscape and be compatible with the surrounding uses. Since this

building will be the first building to define the character of the commercial corridor along Grand River Avenue between Heubert Road and Grand Beach Drive, special attention must be given to building materials and architectural style. The proposed building will be constructed of vinyl siding with metal trim. In accordance with the site design guidelines outlined in the Grand River Avenue Corridor Plan, we make the following recommendations:

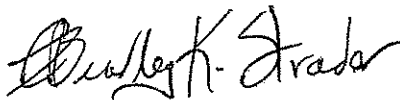
- a. The proposed building should be constructed of or covered with brick, split-faced block, or similar materials.
  - b. Subtle earth tone colors should be used for the proposed building, including roofing material.
  - c. Building facades visible to motorists should include windows and architectural features to avoid an appearance of a long blank wall. Thus, we recommend windows, building lines, architectural accents, and landscaping be added to the east and west elevations.
  - d. Canopies and or awnings should be used at all entrances. Metal, plastic, fiberglass, and backlit awnings should not be used.
  - e. Panels should be provided below each window and a lintel and cornice should be added.
  - f. Rooftop mechanical equipment should be screened and the location of such should be shown on the building elevations.
5. **Preservation of wetlands:** The Impact Assessment states that there are no state regulated wetland areas on this site.
6. **Stormwater management and Soil Erosion Control:** Approval from the Livingston County Drain Commission is required. Details for stormwater management and sedimentation/erosion control need to be submitted to the Township Engineer for review.
7. **Preservation of woodland and trees:** The site is relatively flat sloping from the north to the southeast corner. Vegetation on the site includes scrub brush, grasses, and small trees. In accordance with Section 13.05 & Section 13.07, a tree survey should be provided to determine which trees with a caliper of eight inches or greater should be saved and which trees may be removed.
8. **Parking and loading Spaces:** The minimum number of off-street spaces are determined in accordance with the standards provided in Article 14 of the Ordinance.
- a. Required Spaces: Five spaces per each 1,000 sq. ft. of gross floor area of retail space, plus one space for each 1,500 sq. ft. of gross floor area of warehouse space. The proposed building contains 2,500 sq. ft. of sales area and 2,500 sq. ft. of warehouse space. Thus, 15 parking spaces  $((2,500/1,000 \times 5) + (2,500/1,500 \times 1) = 15)$  are required, including one barrier-free parking spaces. The applicant has provided 24 parking spaces, including one barrier-free parking space.
  - b. Barrier-free Parking Requirements: One barrier-free parking space must be designated "van accessible" and must be located adjacent to an eight foot wide minimum access aisle. Details for the accessible curb ramp must comply with the Uniform Federal Accessibility Standards.
  - c. Layout and Design: We recommend a deadhead, measuring 10 ft. x 26 ft., be installed at the west end of the front parking lot and that the service drive located on the east side of the building be reduced to 20 ft. wide.

9. **Greenbelts, landscaping and screening:** A landscaping plan is required under the General Provisions of the Ordinance and the requirements of Section 3.54.
  - a. **Required Greenbelt along Street Frontage:** The required twenty foot wide greenbelt with the equivalent of one canopy tree, for every 40 linear feet of frontage is provided.
  - b. **Parking lot Landscaping:** Three canopy trees and 240 sq. ft. of interior landscaping are required in accordance with the requirements of Section 14.04. At least one canopy tree must be provided in the interior of the lot.
  - c. **Buffer:** We recommend a three foot high berm, planted with low growing shrubs (such as junipers, yews, or holly), be installed in the required 20 ft. wide greenbelt between the front parking lot and the Grand River Avenue right-of-way.
10. **Access, internal street and circulation:** A service drive be installed in the front or rear of the building that can be linked with future development to the east and west of the subject lot as specified in the Grand River Avenue Corridor Plan and the Zoning Ordinance. The applicant should provide a written access easement for shared access with adjacent parcels.
11. **Waste Receptacles:** Waste receptacles must be located in the rear yard and designed in compliance with the standards outlined in Section 3.50. Approval from the Planning Commission for the proposed cedar fence waste receptacle enclosure is required.
12. **Exterior Lighting:** All outdoor lighting complies with Section 3.51.
13. **Signage:** Signs shown comply with Article 16. We recommend the wall sign be placed within a lintel.
14. **Impact Assessment:** According to the Impact Assessment, the anticipated traffic generated by the proposed facility will be less than 50 directional trips at peak hour and will not exceed 750 trips in an average day. No significant adverse impact to current or future traffic is anticipated.
15. **Additional Comments:** Samples of proposed materials and colors for the proposed building and signage must be provided to the Planning Commission for review and approval.

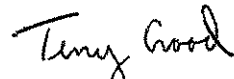
Should you have any questions concerning this matter, please do not hesitate to contact our office.

Respectfully submitted,

**McKENNA ASSOCIATES, INCORPORATED**



Bradley K. Strader, AICP  
Vice President



Terry Croad, AICP  
Senior Planner

cc: Designe Inc.

GENOA TOWNSHIP  
PLANNING COMMISSION  
AUGUST 22, 1995

(Regular meeting adjourned from August 14, 1995)

MINUTES

The Planning Commission meeting was called to order by Chairman Colley at 7:00 p.m. at the Genoa Township Hall. The following board members were present constituting a quorum for the transaction of business: Bill Colley, Kathy Robertson, Don Pobuda and Gary McCririe. Also present were: Jim Stornant, Township Zoning Administrator; Jeff Purdy, Township Planner; and twelve persons in the audience.

Moved by McCririe, supported by Pobuda, to approve the Agenda as presented. The motion carried.

A CALL TO THE PUBLIC was made with no response.

1. OPEN PUBLIC HEARING #1...REVIEW OF A SITE PLAN AND CORRESPONDING ENVIRONMENTAL IMPACT ASSESSMENT FOR A PROPOSED RETAIL PAINT STORE, LOCATED ALONG THE SOUTH SIDE OF GRAND RIVER, EAST OF GRAND BEACH DRIVE ON APPROXIMATELY 1.7 ACRES. SECTION 14: WXZ DEVELOPMENT. Jim Wymer, Wayne Perry.

Wayne Perry, Desine Engineering - This request is for a 5000 square foot retail paint center, with 2800 square feet of sales area. We have revised the site plan to address drainage and parking concerns as requested by the township planners. Existing drainage is to the south and east of the property. The parking lot is curbed and bituminous, with appropriate green belts as requested. Three canopy trees have been added in the front yard and are included on the new site plan. The warehousing part of this facility is primarily for storage to supplement sales. Access language to properties on both sides of the development have been added to the plan.

Colley - Is there a berm to the west. Perry - It is a landscaped area and can be bermed if the commission requests.

Pobuda - Does the traffic pattern allow movement of materials.  
Wyman - This is not a high traffic use. We usually have no more than six customers at a time. Most of our business is contractor business. The warehousing facilities are for our contractor clients.

Robertson - Why is there more parking spaces than needed? Perry - The depth of the lot was determined by the need for truck turn around traffic. Since that area was paved, we added parking spaces.

Colley - Please explain your operation. Wyman - Materials are unloaded with a lift. Only color tinting of paint is done on site.

Colley - Please address McNamee's letter. Perry - We did change the drainage pattern on the site. Surface draining of the curbed parking lot is calculated at a 1/2% grade. Their 1% request appears to be appropriate when there are not curb and gutters. Colley - The 1% does appear to be appropriate. Settling may occur, and the length of the parking facility is extensive. Is there some physical reason why you cannot meet the 1% requirement. Perry - This would require a significant amount of fall with a parking lot 150 feet in length. We are restricted to sheet flow. Colley - What about ditching. Perry - Yes, we intend to ditch down the center, as requested by the township engineer.

McCririe - The use of your warehouse is incidental to your store and the intent is not to lease that space to other users. Wyman - That is correct. Colley - This is not warehousing when the facility is for storage.

Stornant - What rate does the water come off the lot. Perry - It comes to the southeast of the property and is at the agricultural rate. That discharge is cut in half and directed to the back of the property. It will dissipate into the top soil as the current run off to this site does. There is a difference in elevation of 7 1/2 feet as the property sits today. The water will end up in the county drain.

McCririe - How much water will stand in the detention basin. Perry - There should be no water in there except after a storm. Can this plan be designed without a fence. Perry - We can design this property so that a fence is not necessary.

Colley - The standing water after a storm is two feet. Perry - That is correct.

A call to the public was made with the following response: Joe Fader - The water flow will go to a ditch (Bonine's Pond). That is fine with us. What is the general plan for that entire parcel? It appears that the land is locked behind this development. Purdy - We know that the zoning is NSD.

Colley - The warehouse should be called a storage area in an effort to clarify that issue. Are floor drains included in the storage area? Perry - We do not intend to have any drains in this facility.

Colley - This application should also be conditional upon the township engineer's approval.

Wyman - There is very little development near this site. We understand that we may be setting a precedent here. This

building will have a gabled roof with asphalt shingles. The colors will be earthtone or muted (usually light gray with the metal trim being a darker shade of gray). We have added three different types of masonry to add character to the building. The blocks will be scored and unpainted, with some split faced block lines to give the building a horizontal feature. The sign will be right above the door (with a blue background and white letters with a red Sherman Williams logo). Lighting on the overhang will light the signage. A pylon sign does meet the requirements of the ordinance. It is 42 square feet with a height of 15'.

Colley - Does the building signage meet the ordinance. Purdy - The signage must meet the 10% restriction of the ordinance. The plan calls for 80 square foot signage on the building.

Pobuda - What is the potential for fire? Wyman - The quantities of paint are within the standards of the law. We do provide the local fire department with that information.

\* PLANNING COMMISSION DISPOSITION OF WXZ DEVELOPMENTS  
PETITION.

A. RECOMMENDATION REGARDING ENVIRONMENTAL IMPACT  
ASSESSMENT.

Moved by McCririe, supported by to recommend approval of the impact assessment to the township board. The motion carried.

B. DISPOSITION OF SITE PLAN.

Moved by McCririe, supported by Pobuda, to approve the site plan with the following conditions:

- three canopy trees will be provided in the front yard meeting the township zoning ordinance
- warehouse area on the site plan be re-labeled storage and is determined to be acceptable and incidental to this use
- that the proposed cedar enclosure for the dumpster is acceptable
- that the detention basin is to be redesigned as to not require fencing and approved by the Livingston County Drain Commissioner
- that the petitioner provide easement language satisfactory to the township attorney for the service drive on the east and west sides of the building
- the building shall contain no floor drains
- all signage shall conform to the township zoning ordinance
- review and approval by the township's engineers
- finally, contingent upon the township board's approval of the impact assessment

The motion carried unanimously.

2. OPEN PUBLIC HEARING # 2...REVIEW OF A SITE PLAN AND  
CORRESPONDING ENVIRONMENTAL IMPACT ASSESSMENT FOR A PROPOSED

Moved by McCririe, supported by Skolarus, to approve the final plat for Pine Creek Ridge Phase III as presented. The motion carried unanimously.

5. Consideration of a request to rezone from AG (Agricultural) to PRF (Public Recreational Facilities), for a proposed "Bread of Life Tabernacle" Church, located on Herbst Road, between Dorr and Hubert Road, in Section 23: Ray Lanning, Desine, Inc.

Moved by Kull, supported by Hunt, to approve the impact assessment as presented. The motion carried unanimously.

Moved by McCririe, supported by Kull, to approve the rezoning as requested. The motion carried unanimously.

6. Request for approval of the impact assessment corresponding to site plan for a proposed retail paint store, located along the south side of Grand River, east of Grand Beach Drive on approximately 1.7 acres, in Section 14: WXZ Development.

Moved by Skolarus, supported by Hunt, to approve the impact assessment as presented. Further, that prior to the issuance of a land use permit, the easement language for the service drive will be approved by Township Attorney Heikkinen and properly executed. The motion carried unanimously.

7. Request for approval of the impact assessment corresponding to site plan for a proposed medical and general office building, located on the north side of Grand River, west of Grand Oaks Drive, on approximately 3.5 acres, in Section 05: David Reader, Boss Engineering.

Moved by McCririe, supported by Kull, to approve the impact assessment as presented. The motion carried unanimously.

8. Request for approval of the impact assessment corresponding to site plan for a proposed Cellular One phone tower & facility, located at 2025 Euler Road, Brighton, in Section 13: Detroit Cellular Telephone.

Moved by McCririe, supported by Hunt, to approve the impact assessment as presented. The motion carried as follows: Ayes - McCririe, Hunt, Murray and Kull. Nays - Skolarus. Absent - Brown.

9. Consideration of a replacement for Trustee David Johnson.

Moved by Skolarus, supported by Hunt, to approve the Supervisor's recommendation of Mr. Craig Jarvis to fill the recently vacated position of David Johnson for a term to expire on November 20, 1996. The motion carried unanimously.

Moved by McCririe, supported by Skolarus, to approve the final plat for Pine Creek Ridge Phase III as presented. The motion carried unanimously.

5. Consideration of a request to rezone from AG (Agricultural) to PRF (Public Recreational Facilities), for a proposed "Bread of Life Tabernacle" Church, located on Herbst Road, between Dorr and Hubert Road, in Section 23: Ray Lanning, Desine, Inc.

Moved by Kull, supported by Hunt, to approve the impact assessment as presented. The motion carried unanimously.

Moved by McCririe, supported by Kull, to approve the rezoning as requested. The motion carried unanimously.

6. Request for approval of the impact assessment corresponding to site plan for a proposed retail paint store, located along the south side of Grand River, east of Grand Beach Drive on approximately 1.7 acres, in Section 14: WXZ Development.

Moved by Skolarus, supported by Hunt, to approve the impact assessment as presented. Further, that prior to the issuance of a land use permit, the easement language for the service drive will be approved by Township Attorney Heikkinen and properly executed. The motion carried unanimously.

7. Request for approval of the impact assessment corresponding to site plan for a proposed medical and general office building, located on the north side of Grand River, west of Grand Oaks Drive, on approximately 3.5 acres, in Section 05: David Reader, Boss Engineering.

Moved by McCririe, supported by Kull, to approve the impact assessment as presented. The motion carried unanimously.

8. Request for approval of the impact assessment corresponding to site plan for a proposed Cellular One phone tower & facility, located at 2025 Euler Road, Brighton, in Section 13: Detroit Cellular Telephone.

Moved by McCririe, supported by Hunt, to approve the impact assessment as presented. The motion carried as follows: Ayes - McCririe, Hunt, Murray and Kull. Nays - Skolarus. Absent - Brown.

9. Consideration of a replacement for Trustee David Johnson.

Moved by Skolarus, supported by Hunt, to approve the Supervisor's recommendation of Mr. Craig Jarvis to fill the recently vacated position of David Johnson for a term to expire on November 20, 1996. The motion carried unanimously.



DEC. 1.2006 11:22AM 01115175466775

NO.197 P.1/1

**THE HEIKKINEN LAW FIRM, P.C.**  
110 NORTH MICHIGAN AVENUE  
HOWELL, MICHIGAN 48843

ARTHUR HEIKKINEN  
RICHARD A. HEIKKINEN

TEL (517) 246-1454  
FAX (517) 246-6778

December 1, 2006

Thomas Guastello  
300 Park Street  
Suite 410  
Birmingham, Michigan 48009-3482

Re: 6838 West Grand River

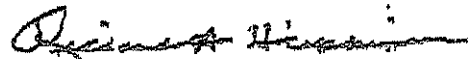
Dear Mr. Guastello:

On February 9, 2006 I wrote to you requesting that you prepare an easement. I supplied necessary information at that time as well. Please prepare the easement and forward it to me before January 1, 2007. Until the easement is recorded you are in violation of the approval of your site plan. I do not want to take any legal action and would like to close this file as soon as possible.

Please cooperate with my request.

Very truly yours,

THE HEIKKINEN LAW FIRM, P.C.



Richard A. Heikkinen

RAH/nb  
cc: Kelly VanWarter

# MYERS & MYERS, PLLC

ATTORNEYS AT LAW

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Kelly A. Myers  
Roger L. Myers \*

\* Also Admitted to Practice in California

8163 Grand River Avenue  
Suite 400  
Brighton, Michigan 48114

(810)229-6620  
Fax: (810)229-6650

May 30, 2008

J. Kyle Guthrie  
Christopher G. Bovid  
Eric C. Jones

Thomas Guastello  
Center Management  
300 Park Street, Suite 410  
Birmingham, MI 48009

Richard A. Heikkinen, Esq.  
Heikkinen Law Firm, P.C.  
110 N. Michigan Ave.  
Howell, MI 48843

Re: Easement for Access to vacant parcel (ID #11-14-200-16) west of and adjacent to Sherwin Williams parcel on West Grand River, Genoa Township

Gentlemen:

This firm has been retained by John Beauchamp and John Nagel, the owners of the property located west of and adjacent to the Sherwin Williams store on West Grand River Avenue in Genoa Township. Please direct all future correspondence regarding this matter to my attention.

As each of you are aware, my clients have attempted to secure the necessary approvals for the development of a multiple building office/commercial complex on their property, including the necessary approvals for access to Grand River Avenue. In 2005, the Livingston County Road Commission denied the application for a driveway permit to provide direct access from the property to Grand River due to the inability to meet the minimum site distance requirements of the Road Commission regulations.

Through further investigation of this issue, my clients learned that, due to the site distance issue and the requirements of the Grand River Avenue Corridor Plan and Township Zoning Ordinance then in effect, the approval of the necessary access to the subject property was specifically addressed by Genoa Township in connection with the approval of the adjacent Sherwin Williams store in 1995. Specifically, as a condition to the approval of the site plan for the development of the Sherwin Williams parcel, the Township Planning Commission mandated the creation of an easement over such parcel in a form that was acceptable to the Township Attorney, Mr. Heikkinen, that would serve as the Grand River access to my clients' property. At the August 22, 1995 meeting, the Planning Commission further conditioned approval of the site plan on the Township Board's approval of the impact assessment required by the zoning ordinance. At its regular meeting on September 5, 1995, the Township Board approved the impact assessment for the Sherwin Williams parcel on the sole specific condition that an easement to provide access to my

Thomas Guastello  
Richard A. Heikkinen, Esq.  
May 30, 2008  
Page 2

impact assessment for the Sherwin Williams parcel on the sole specific condition that an easement to provide access to my clients' property be approved by Mr. Heikkinen and "properly executed" prior to the issuance of a land use permit. I have enclosed a copy of the August 22, 1995 Planning Commission minutes and September 5, 1995 Township Board minutes for your review.

Although approval of the development and use of the Sherwin Williams parcel was expressly conditioned upon the granting and execution of an easement over such parcel to provide Grand River access for my clients' property, a written easement to that effect was apparently never prepared and recorded. It is my understanding that Mr. Beauchamp met with Mr. Guastello, the current owner of the property, to discuss the implementation of the easement to provide Grand River access to my clients' property. However, Mr. Guastello apparently refuses to recognize the validity of the easement on the basis that the easement is not referenced on the documents that he received when he purchased the property from the original owner of the Sherwin Williams parcel, and he otherwise had no knowledge of the easement at the time of the purchase.

The law in Michigan is clear that conditions attached to the approval of a site plan by the Township are part of the legal record of the approval process and shall remain unchanged without the mutual consent of the Township and property owner. See MCL 125.286d(3) and 125.286e(3) (in effect at the time of site plan approval for the Sherwin William parcel, now found in MCL 125.3504(5) and 125.3501(2), respectively). Therefore, the fact that an express easement was not recorded and Mr. Guastello may not have had actual knowledge of the easement when he purchased the Sherwin Williams parcel is irrelevant to the enforceability of the easement over such parcel to provide Grand River access to my clients' property.

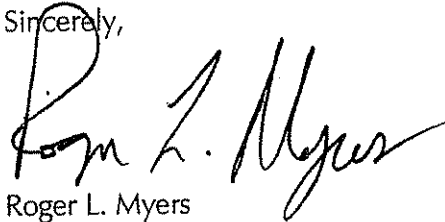
As a result of the clarity of Michigan law on this issue and the refusal by Mr. Guastello to recognize the validity of the easement, it is my understanding that the Township had instructed Mr. Heikkinen to pursue legal action to enforce the easement. However, nothing has been done to that end, and proposals for alternative access through the manufactured housing development to the west have been rejected by the Road Commission and/or the owner of such development. Thus, for the past two years, my clients have been unable to develop or use their property in any manner due exclusively to the inaction of the Township and the unjustified refusal by Mr. Guastello to recognize the validity of the easement.

On behalf of my clients, I demand that each of you counter-sign this letter agreeing to execute all documents, including an easement over the Sherwin Williams parcel to be recorded with the Livingston County Register of Deeds, to secure the necessary approvals for access from my clients' property to Grand River. In the event that I do not receive a written acknowledgment to such agreement from both of you within seven days, I have been instructed to commence litigation

Thomas Guastello  
Richard A. Heikkinen, Esq.  
May 30, 2008  
Page 3

against both parties seeking such relief and the recovery of all monetary losses incurred by my clients as a result of the total deprivation of any use of their property.

Sincerely,



Roger L. Myers

We hereby acknowledge and agree to execute all documents, including an easement over the Sherwin Williams parcel located at 6838 West Grand River, to secure all necessary approvals for access to Grand River Avenue for the adjacent vacant parcel.

---

Richard A. Heikkinen  
Attorney for Genoa Township

---

Thomas Guastello, Authorized Agent for the Owner  
of Parcel ID 11-14-200-15, commonly known as the  
Sherwin Williams Parcel at 6838 West Grand River

RLM/jk

Enclosures

cc: Mr. John Beauchamp (w/encs)  
G:\Client Folders\C1194-Nagel\M001\guastello.ltr.wpd

# CENTER MANAGEMENT, INC.

300 Park Street, Suite 410  
Birmingham, MI 48009  
Tel: 248 549-0900 Fax: 248 549-0990

June 19, 2008

Roger L. Myers  
Myers & Myers, PLLC  
8163 Grand River Avenue, Suite 400  
Brighton, MI 48114

Re: Sherwin Williams Parcel, 6838 West Grand River, Parcel ID 11-14-200-015

Dear Mr. Myers:

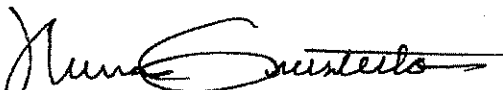
We have received your correspondence dated May 30, 2008 regarding the above-described parcel. As you may know, we purchased the 6838 West Grand River property in July 1996. In our due diligence, we found 1) a Certificate of Occupancy was issued on January 19, 1996; 2) No notice of a proposed easement to the west of the property was shown on the approved site plan; 3) No easement to the parcel to the west was recorded, nor was such an easement shown on the title insurance.

We are concerned about the exact nature of the proposed easement, as well as the proposed development and site plans for the parcels to the west and south of 6838 West Grand River. We are concerned that an easement would cause an exponential increase in traffic, maintenance issues, and pedestrian safety issues. Additionally, heavy traffic on this lot would discourage customers from turning in to and patronizing the Sherwin Williams store. The addition of an easement on this property is an action that could cause Sherwin Williams to terminate their lease.

In our prior discussions and site visits, we have observed that it appears your clients, the property owners of the parcel to the west, have an established access drive easement onto the property from Grand Beach Drive. The most practical solution for access is to have the property owners continue to access Grand Beach Drive; or gain independent access to Grand River Avenue; or a combination of both.

Should you have further questions or concerns, we would be willing to meet with you at our office to discuss this matter.

Sincerely,

  
Thomas Guastello

/bg

**The Heikkinen Law Firm, P.C.**

110 North Michigan Avenue  
Howell, Michigan 48843

Richard A. Heikkinen  
Peter M. Neu, of Counsel

(517) 546-1434  
Fax: 546-6775

July 22, 2008

Roger L. Myers  
Attorney at Law  
8163 Grand River Avenue  
Suite 400  
Brighton, Michigan 48114

Re: Access Issue - Your Client: Beauchamp & Nogel

Dear Mr. Myers:

I had discussions with Gary McCririe, Supervisor and Mike Archinal, Township Manager for the purpose of trying to ascertain the best method for your client to obtain access to Grand River Avenue. I assume your client has a Grant of an Easement West of the Guastello property. My recollection is that the easement has been used by the owners of several neighboring residential properties for many years. Although the Road Commission apparently opposes further burdening of the existing access. I do not think they can prohibit access without compensation.

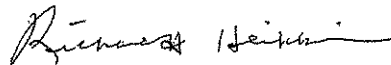
Assuming the Road Commission approves a point of ingress and egress then your client should apply for site plan approval.

At this time the Township is not inclined to attempt to compel Mr. Guastello to grant easements over his property. We do not think that he had knowledge of the Township's request for rights of ingress and egress when he bought the property. Also, much time has passed since the development of the property. It also seems likely that the tenant would object to the use of the property for ingress and egress because such rights were not reserved in the lease executed by the parties.

If you want to discuss this matter further please call me.

Very truly yours,

THE HEIKKINEN LAW FIRM, P.C.



Richard A. Heikkinen

RAH/nb