

156-Home Jensam Development is Coming to 247 acres on Clarkston Road by 4/3 Board Vote

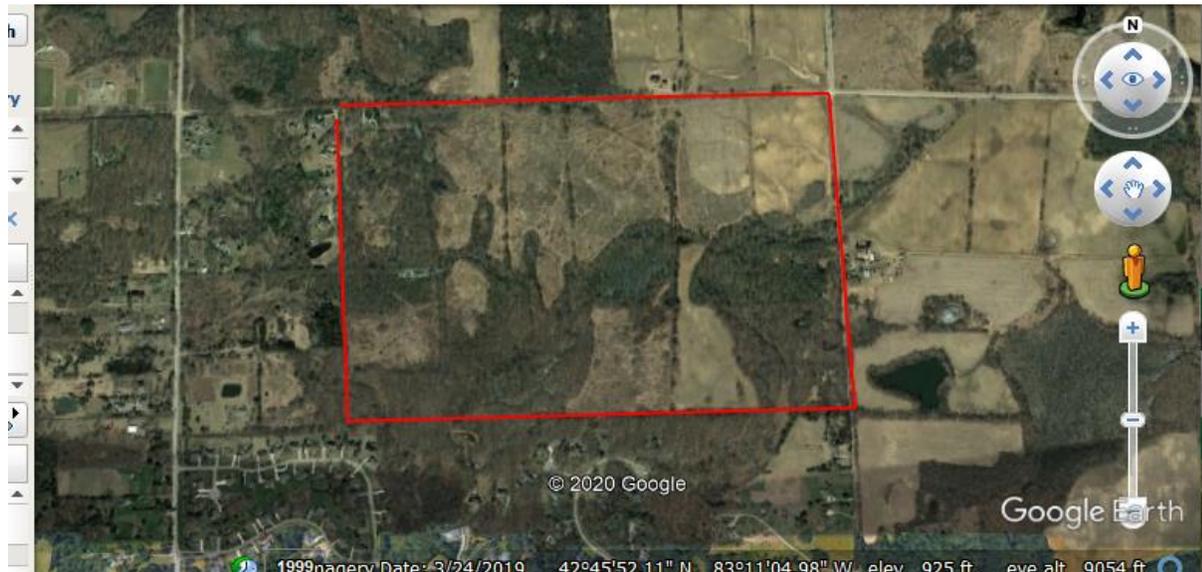
At the October 22, 2019 Board of Trustees meeting, the Board voted 4/3 to agree to a Consent Judgement worked out confidentially during court-ordered facilitation with developer Jensam LLC. I am reluctant to discuss an opinion about the outcome, except to say it seems to conform now to what was asked of the developer in the first place.

- All of Clarkston between Adams and Lake George gets paved
- It has a proper number of lots for the zoning, not the original ask of 183
- It will be on a sewer line

But, now further disputes are to be resolved by a court-lead process, not a township-lead process.

Those who voted against agreeing (Langlois, Reilly, and Buxar) seemed to want the planning process to come back to the regular process of Planning Commission and Board.

Approximate property boundaries: Clarkston Rd on north, Lake George on east. Five parcels



Summary of Consent Agreement	
Provision	Paragraph
156 single family homes maximum (Jensam asked for 182)	22,24
Subject to current Township ordinances that do not contradict the consent agreement; therefore public review of detailed plans at Planning Commission and Board of Trustees	25,26,27,42 through 53,58
Serviced by sewers	30,31
Community well, to be owned by Township	32
Jensam to pave Clarkston from Lake George to Adams	33
120 feet minimum lot width except in cul-de-sacs	34
Lots at least 19,500 square feet (MRD with sewer)	35
Side-entry garages	36
40 foot scenic easement for 10 foot safety path along Clarkston	37
Safety path paid for by developer, if desired by Twp. or contribution to fund	37
Future maintenance and repairs of safety path by property owners	37
Two entrances off Clarkston	40
Mediator to resolve any future disputes	60

The 27 page draft consent judgement can be seen in the 10/22/2019 Board Meeting Packet starting on page 81 with Attorney Kelly's summary letter:

<https://www.ecode360.com/documents/OA3183/public/512262012.pdf>

The final signed consent judgement can be seen here:

<https://oaklandtownshipsentinelcom.files.wordpress.com/2020/02/jensam-consent-judgement.pdf>

It is important to recognize that this is something both parties agreed to as a result of facilitation, not something a judge decided. The judge formalizes what the parties agree to by putting it in a court document to prevent future misunderstandings. The document also defines that any future disputes about this agreement are to be resolved via the facilitator or his replacement.

Jensam's development proposal had been not recommended in 2017 by the Planning Commission, then it was denied by the Board of Trustees and denied by the Zoning Board of Appeals. One of the reasons for the denial was failure to provide a site plan. See those minutes at this link:

<https://oaklandtownshipsentinelcom.files.wordpress.com/2020/02/jensam-development-minutes-of-public-meetings.pdf>

Jensam subsequently listed 59 items in a 15 page legal complaint. Some of the items are simply facts about the property. They claimed many violations of their constitutional rights and failure of the Township to fairly apply the Zoning Ordinance. They wanted 182 lots (they claimed 272 should be permitted by our Zoning Ordinance) and to pave Clarkston only from Lake George west to their development entrance, but not all the way to Adams.

<https://oaklandtownshipsentinelcom.files.wordpress.com/2018/11/jensam-complaint.pdf>

The Township replied to each of Jensam's 59 points in this 9 page document. Either agreeing, disagreeing, etc.

<https://oaklandtownshipsentinelcom.files.wordpress.com/2018/11/jensam-complaint-township-answer.pdf>

Then the Township explains that it had been fair and the complaint was invalid.

<https://oaklandtownshipsentinelcom.files.wordpress.com/2018/11/jensam-complaint-township-affirmative-defense.pdf>

Court mandated facilitation led to this decision:

10/22/2019 – Board of Trustees

2. Consideration of Proposed Consent Judgement to Resolve Pending Litigation Between Oakland Township and Jensam, LLC

MOTION by Giannangeli, supported by Bailey to resolve the litigation filed by Jensam, LLC, with Oakland Township and approve the Consent Judgment as contained in the October 22, 2019, Board of Trustees' Packet with any minor corrections or alterations as approved by the Township Attorney and authorize the Township Supervisor and Clerk to execute the Consent Judgment and authorize the Township Attorney to execute the appropriate Order of Dismissal resolving all litigation between the Township and Jensam, without costs or fees to either party.

The Board heard public comment from:

Craig Blust – 2222 W. Buell

Jerry Kolinski – 1181 Oak Hill Road

John Markel – 245 Birch Hill Dr

Roll Call Vote:

Ayes: Bailey, Ferriolo, Giannangeli, Mangiapane

Nays: Buxar, Langlois, Reilly

Absent: None

Motion carried 4/3.

The entire Board 10/22/19 deliberations can be seen in the 40 minutes segment of this video. (Agenda 7/2)

https://videoplayer.telvue.com/player/KGL-y_dHhCluQTy7c6YoVBzzQ5eHj7Lr/playlists/6369/media/520398?sequenceNumber=3&autostart=true&showtabssearch=true

Of course the Board could have rejected this judgement and risked going to trial, where perhaps the developer would prevail in getting monetary damages for his losses during the 2 year delay. For me, it is too complex and I know too little to have a firm opinion on which path I would favor.

On 2/19/20 I asked Board of Trustee members to summarize the reasons for their votes and received these two responses out of seven Board members by 3/1/20.

No votes:

"In terms of justification for my vote, I spent quite a bit of time preparing the statement I made at the meeting, so I feel that listening to or watching the meeting video would give the best explanation to anyone who might be interested.

Regards,

***Jeanne Langlois
Treasurer - Charter Township of Oakland "***

Editor's note: The meeting video can be seen at the link above. It was agenda item #7/2.

Yes votes:

"The main issue was Density reduction. So at 156 units, I am satisfied the consent judgement density is acceptable. This, along with agreement to pave Clarkston Rd, increase rear yards along Clarkston Rd and have side entrance garages on all lots was sufficient for me.

Regards,

***Michael Bailey
Township Supervisor"***

Bob Yager – Editor – Oakland Township Sentinel