

From: [King, Andrew](#)
To: [Shafer, Joe](#)
Subject: Conflict between Comprehensive Plan and Zoning Resolution
Date: Tuesday, August 8, 2017 2:13:37 PM

Joe,

You asked how the Township should resolve a conflict between the comprehensive plan. As you know, the Township is permitted by Chapter 519 to enact a zoning resolution. R.C. 519.02 allows the Township to regulate location, size, area, and use of property **by resolution**. The zoning resolution is the only statutorily permitted method by which the Township can legislatively establish land use restrictions. As you know, in the absence of a zoning resolution, the only limitations of a property owner's use of real property is what other statutes or common law restrict. There is no intermediate state between zoned and unzoned townships.

In a similar vein, the comprehensive plan cannot function as a substitute for the zoning resolution. Chapter 519 establishes a specific procedure for creating and amending the zoning resolution, including subjecting the resolution to a referendum. On the other hand, there is no specific statutory authority for creating and adopting a comprehensive plan. Unlike the zoning resolution, it is not necessarily legislative and cannot be made subject to a referendum. It's only function is to act as a guide to the zoning resolution adopted under R.C. 519.02. Thus, it may not usurp or supplement the legal authority of the zoning resolution.

In the event of a conflict between the two documents, the zoning resolution must always prevail. It would be illegal and likely a violation of the land owner's constitutional due process right to subject a landowner to restrictions found in the comprehensive plan. Accordingly, we advise Genoa Township not to use the comprehensive plan as binding legal authority on any zoning matter.

Please let me know if you have any additional questions or concerns,

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