

A REGULAR MEETING OF THE LEELANAU COUNTY PLANNING COMMISSION WAS HELD ON TUESDAY, JANUARY 24, 2023, AT THE LEELANAU COUNTY GOVERNMENT CENTER.

Proceedings of the meeting were recorded and are not the official record of the meeting. The formally approved written copy of the minutes will be the official record of the meeting.

CALL TO ORDER Meeting was called to order at 5:30 p.m. by Chairman Yoder who led the Pledge of Allegiance. The Meeting was held at the Leelanau County Government Center, 8527 E. Government Center Dr., Suttons Bay, MI.

ROLL CALL

Members Present: S. Yoder, R. Miller, T. Nixon, A. Trumbull, C. Noonan
T. MacDonald, R. Brush

Members Absent: M. Black, M. Lautner
(prior notice)

Staff Present: T. Galla, Director, G. Myer, Senior Planner

Public Present: S. Patmore, one other citizen

Yoder welcomed new members Brush and MacDonald.

CONSIDERATION OF AGENDA

Motion by Noonan, seconded Miller, to accept the agenda as presented. Motion carried 7-0.

CONFLICT OF INTEREST – None.

ANNUAL ORGANIZATIONAL ITEMS

Election of Officers (2022 officers: S. Yoder-Chair, C. Noonan-Vice-Chair, M. Black-Chair Pro-Tem)

Chairman

Vice Chairman

Chair Pro-Tem

Motion by Nixon, seconded by Trumbull, to re-elect the same officers: S. Yoder-Chair, C. Noonan-Vice-Chair, M. Black-Chair Pro-Tem for 2023. Nominations were closed and the motion passed 7-0.

ANNUAL REVIEW OF BYLAWS

Motion by Noonan, seconded by Nixon, to approve Bylaws as presented. Motion carried 7-0.

CONSIDERATION OF 2023 MEETING SCHEDULE & ANNUAL MEETING DATE

Miller said December 26th may be a difficult meeting for everyone to make. Galla suggested moving it to the 3rd Tuesday, downstairs.

Motion by Noonan, seconded by Trumbull, to approve the proposed 2023 meeting schedule as amended. Motion carried 7-0.

COMMITTEE APPOINTMENTS

Housing Action Committee

Galla informed member that County Commissioner Gwen Allgaier is interested in becoming a member of the Housing Action Committee.

Motion by Noonan, seconded by Miller, to appoint County Commissioner Allgaier to the Housing Action Committee. Motion carried 7-0

Parks & Recreation

Yoder appointed Noonan to Parks & Recreation for 2023.

PUBLIC COMMENT – None.

STAFF COMMENTS

Galla passed out a MAP (Michigan Association of Planning) training brochure and told members if they are interested in attending any of the training sessions to contact staff and they will register them.

Galla mentioned their review of the Benzonia Joint Master Plan and said she received an email from Sara Kirk, of SRP Designs Studio, who thanked members for a thorough review and stated another proof read ahead of the draft would have been great to have. She is not used to getting much response on the drafts, so it was much appreciated.

CONSIDERATION OF SEPTEMBER 27, 2022 MEETING MINUTES

Motion by Noonan, seconded by Trumbull, to accept the minutes as presented. Motion carried 7-0.

NEW BUSINESS

PC01-2023-08 Leelanau Twp. – Rezone Agricultural to R1

Galla reviewed the staff report saying this was a request on the December meeting agenda, but a few members had things happen at the last minute that could not be avoided, so there wasn't a quorum. The township has requested that this be reviewed tonight, that is why it is being reviewed after the 30-day review period has expired.

Galla continued, saying this is a rezoning request for just under 28 acres located west of N. Old Farm Rd., from Agricultural to Residential 1. The Lake Michigan ridgeline runs along the west side of the parcel. The property to the north and east is vacant and zoned Agricultural and to the south are some single-family dwellings, orchards and the zoning is Residential 1, Residential Conservation and Agricultural.

Galla said the Leelanau Township Future Land Use Map calls for Residential Conservation in this area and in the township master plan it states one dwelling unit per 10 acres for rural lands that are not suitable for agricultural or horticultural production on a large scale. The plan also states for low density residential development at densities no higher than one dwelling unit per two acres. The Low-Density Residential category is, in general, located remotely from urban and other intense uses. Most of the

mainland shoreline perimeter area is included in this category. Uses are limited to single family residences and appropriate accessory uses. Galla said the Leelanau County General Plan Future Land Use Maps notes the Northern Hardwoods in this area, and agricultural lands but does not specifically identify any community types or densities for the area.

Galla continued, saying a public hearing was held on August 25, 2022 and adjourned to September 8, 2022, and then October 13, 2022. On October 11, the township received a written offer of conditions and republished the Public Hearing notice for November 10, 2022. Most of the public comment that has been received on this rezoning request has been opposition to the rezoning. At the November 10, township planning commission meeting, the commission reviewed Findings of Fact and then made a recommendation to approve the application subject to the voluntary conditions submitted by the applicant including the voluntary amendments to the conditions discussed that night.

Galla reviewed the history next, saying that in 2004, two rezoning requests were reviewed by the county planning commission for property directly to the south of the subject parcel: PC10-04-08 and PC11-04-08. Staff report PC10-04-08 was a request from Clifford Hale to rezone 9.6 acres of land with one existing house, from the Agricultural District to the Residential 1 district. Due to the steep slopes and soils unsuitable for development, it was noted only one additional split could be made for this parcel. The rezoning would remove that nonconforming status (less than 10-acre size), and allow the applicant to make one additional parcel split. The parcel was rezoned by the township.

Staff report PC11-04-08 was a request from Barbara Yearn to rezone 10.4 acres of land with one existing house, from Agricultural to Residential Conservation. The applicant had originally requested rezoning to Residential 1 and later changed it to Residential Conservation. In 2004 the Residential Conservation had the same minimum lot size as the Agricultural district but allowed the option of Planned Site Option to increase the density. The Yearn parcel previously included 7 acres to the immediate north which was rezoned in 2000 and split off from the parent parcel. The township board approved rezoning of the Yearn parcel to Residential Conservation.

Galla then moved on to Staff Analysis and Findings, saying that according to the Leelanau Township Zoning Map, parcels directly to the south of this parcel are zoned Residential 1 and Residential Conservation. There is residential development along the shoreline/bluff, and agricultural use to the east. Rezoning would be consistent with the residential development along the shoreline. Galla pointed out that the township Master Plan designates this entire shoreline area as Residential Conservation with a 10-acre minimum lot size and several of the parcels along the shoreline in this designated Residential Conservation area are less than 10 acres in size. The existing zoning is reasonable and the applicant can use the property as currently zoned. There is a 10-acre minimum lot size in the Agricultural district which would allow the applicant to develop 2 homes on 2 separate parcels.

Galla continued, saying that during the public hearing there were a lot of concerns raised regarding the private road used to access the subject parcel, storm water runoff and potential development density and the shoreline bluff. Galla noted that it is important to look at what is allowed in the current use and what is allowed if it is rezoned to a different district regardless of what the applicant is telling you. In this case, the applicant didn't bring forward any conditions saying they would limit the use to a certain use. Galla then mentioned some of the current permitted uses in the Agricultural District and some permitted uses in the proposed Residential 1 District.

Galla explained that a conditional rezoning is when the owner of the land brings forth conditions to that rezoning request for the township to consider. The township is not to suggest conditions or barter back and forth. They must be offered and either accepted or denied. Galla said there is language in the townships zoning ordinance explaining the process and how it all takes place, if the property is rezoned.

Galla said usually, with a conditional rezoning, a person is proposing a certain use. To reduce controversy or concerns, the applicant might volunteer to condition the zoning to restrict the use of the parcel(s) to only a specific certain land use. The applicant in this case, offered six conditions, some of which appear to be requirements that would already have to be followed for local and/or state review/approval for development. If it is already a requirement that an applicant/developer would have to comply with, there's no reason to include it as an Offer of Condition. The first condition was "Place all portions of the parent parcel (i.e., 18 acres) lakeward of the steep slope ridge line in a conservation easement (CE) to be held by the Leelanau Conservancy, Leelanau Township or another qualified third party. CE to be tailored to allow for a future walkway, stairway access lakeward of the ridge line for pedestrian shoreline access." Would the pedestrian access be for the public? If it is only for the property owners, what benefit does it serve the township to accept this Condition? Does the township want to take on the responsibility of a conservation easement on a private piece of property? If there is no access to the shore due to steep slopes and the ridgeline and that portion of the property is not buildable, what benefit does the conservation easement provide? If it will be used by the public as an access to the shoreline, then there is increased traffic to consider to get to this access.

Galla said the main condition is number two. That is where the applicant has offered for a maximum of four parcels. The applicant purchased this property and should have known what was allowed by the zoning. It was stated in some of the documentation that the applicant wanted to have additional parcels due to the initial cost of the property which was over a million dollars. The last couple of years have seen a dramatic increase in the price of properties and homes in this region, with some being sold sight unseen, well above appraised or asking price, and sometimes without inspections. There are other parcels along the shoreline that are more than 10 acres in size. If this Conditional Rezoning is approved, will the township receive similar requests for additional splits?

Galla pointed out that the concerns with the road and road improvements need to be addressed by the property owners that have legal access, along with any township requirements.

Galla concluded by saying the current conditions do not leave the applicant without options. The applicant can build on the parcel or request a division for a maximum of 2 parcels of at least 10 acres in size. There are areas along the shoreline that are steep and will most likely not be used for any of the uses in the Agricultural district except for single family homes, and many of the parcels along the shoreline are already less than 10 acres in size but zoned for Agricultural, perhaps the township should take a look at the zoning along the whole shoreline. Does it make sense to keep these properties in Agricultural? Is there another district that could be considered? There are several parcels that are greater than 10 acres in size along the shoreline, as well as parcels around 2 acres in size. Would a minimum size between these work better for this area? And, is the Planned Site Option in the zoning ordinance being used, or should that be reconsidered?

Brush said he is familiar with the parcel and granting the four splits would put the development in a small portion of the land. He understands the applicants reasoning, but maybe three splits would be better.

Miller addressed the first voluntary condition offered by the applicant and said it doesn't make sense. This is accessed by a private road and those who live and support that road would be penalized. He would be hard put to support this rezoning when they knew the zoning when it was purchased.

Noonan stated that there is no guarantee that the conservancy wants a conservation easement. How can you have that built into your plan? Trumbull said she didn't have any concerns with the rezoning because it is not an agricultural site. Nixon said the master plan calls for this area to become R1 which makes sense when you look at the topography out there.

MacDonald questioned Article 13 which was mentioned in an email from Marsha Buehler. This implies that there are other options available. Are there other alternatives available besides R1? Nixon said he shares this concern also. He would like to know what impact her comments have on this request, if at all.

Steve Patmore, Leelanau Township Zoning Administrator, said the township planning commission spent a lot of time on this request and they received some conflicting information. They looked at a variety of options. Under Article 13, Open Space Residential Development, essentially a clustering, with this being zoned Agricultural they still could have gotten four lots. It would have been clustered with dedicated open space, but it wasn't in the configuration that the applicant wanted, therefore they asked for the rezoning to R1. Patmore said the townships definition of Agricultural property is 65% tillable and he agrees, that this property is not agricultural. Patmore said they are working on their master plan and looking at a possible new district called Lake Michigan Shoreline which would encompass these areas.

Patmore continued, saying the planning commission thought with the conditions of four lots, zoned R1, when you can do four lots zoned Agricultural made it a better possibility. Patmore addressed MacDonald and Nixon's concerns regarding Article 13 by saying they could have done four lots with the open space residential development. He doesn't agree entirely with the conclusion of Buehler's letter that this could have been done with the configuration that the applicant wanted. The applicant wanted two ten acre lots and two smaller lots. Patmore doesn't think that is clustering. In conclusion, Patmore said the road and bluff issue will get handled internally during the permitting and site plan review process. The township has a private road ordinance that will kick in regardless if the rezoning happens or not.

Brush said it is just a matter of permitted uses under Agricultural or R1 then, correct? They can get the four lots either way. Patmore said there wasn't anything brought up during the discussion that the applicant would do, that the township was concerned about. It was pointed out in Buehler's letter that the applicant indicated that they wanted to have the two smaller lots be mini farms. There are a lot of agricultural things you can't do in the R1 District.

Miller questioned how the conservancy easement that was offered would impact this if the property is rezoned and it doesn't happen? Patmore stated the township could have them record an easement and the township would be the monitor of it. There are different ways to convey an easement on your property. Patmore doesn't think the conservancy would want an easement on this parcel. Miller questioned whether the conservancy would want to maintain steps down to the lake. Patmore said the steps would be for the applicants or owners personal use only. Patmore stated that if the township approves the rezoning, the attorney will work on the conditions and how to convey them. Nixon said so there really is no public access in any of those conditions. Patmore responded no; it wasn't offered. Galla commented that it seems like they could have said something like "we won't build here, except steps to the beach" instead of getting tied into the whole conservation easement. Patmore said the attorneys will try and simplify that.

Nixon questioned what was the applicant specifically looking for on this property? Patmore said Article 13 is a clustering, so they would have to be four smaller lots, on less than 50% of the property. According to their application they wanted to have ten acres per house. Miller questioned if smaller lots with a common area would have tax implications which could have been a driver.

Motion by Noonan, seconded by Nixon, to forward the staff report, minutes and all comments to the Leelanau Township Planning Commission. Motion carried 7-0.

Myer reviewed the staff report saying that this request was received on December 28, 2022 and the last day to review under the Michigan Zoning Enabling 30-day review period was January 27, 2023. The Elmwood Township Master Plan does not specifically address this amendment and neither does the Leelanau General Plan. Myer said a public hearing was held on December 13, 2022, at which time no public comments were received. Following the public hearing, the township planning commission unanimously passed a motion to forward the amendment to the county for review.

Myer continued, saying the proposed amendment will add the following definition to Section 2.2 Definitions: “Frontage. With regard to a lot, the length of a lot line directly abutting a street or right-of-way providing legal access to a lot; typically, the front lot line.” And add the following sentence to the definition of Nonconforming Parcel: “Evidence of legal access to any nonconforming parcel shall be provided prior to issuance of any Land Use Permit for development.” The proposed amendment will amend Section 3.5 One Dwelling Per lot so that it reads as follows: “In any zoning district no more than one (1) dwelling shall be permitted per lot or parcel, unless two family or multiple-family dwellings are specifically permitted under this Ordinance in a given zoning district.” And add the following sentence to Section 3/12 B Single Family Dwelling Requirements: “Prior to the dwelling being occupied, the applicant shall obtain a Certificate of Occupancy from the County.”

Myer said the proposed amendment will also add Section 3.13 Dwellings: Unless allowed under any other applicable provisions of this Ordinance, a tent, camper, Recreational Vehicle, or similar shall not be used as or like a dwelling and doing so shall be deemed a violation of this Ordinance. Staff questioned if kids can sleep in a tent or camper in the backyard without a permit? Can a visiting relative stay in a camper in the yard or driveway without a permit?

Staff questioned the amendment to “Footnotes To The Table of Dimensional Requirements Note G.” Will this be replaced with the proposed amendment? Or, is this a new footnote and should be letter “H”?

Myer continued, pointing out that in the current zoning ordinance, Section 5.7 Accessory Buildings and Decks, B.1 states: “For purposes of this Ordinance, decks shall be considered an accessory structure.” Does this mean it would be counted as one of the (3) accessory dwellings?

Myer said the Leelanau County Housing Action Committee (HAC) and Housing North have been working to develop new incentives and options for housing. An Accessory Dwelling Unit (ADU) can provide additional living quarters that are independent of the primary dwelling unit. ADUs can be an effective way to address housing challenges in our communities and because of their size, cost less to construct.

In conclusion, Myer said that Cleveland Township recently adopted language allowing Farmstays in the Agricultural District. These lodging options could be rented out when seasonal workers are not present or they could allow workers to stay year-round and send their kids to school here. Leelanau Township also adopted zoning language regarding housing in its agricultural district. Elmwood Township is encouraged to consider adding ADU language to its zoning ordinance to assist with developing the much-needed housing Leelanau County needs for its workforce and families, as well as language regarding the use of housing in its agricultural areas. By allowing these additional housing opportunities, communities can help increase the inventory of available housing and a variety of options for families seeking places to rent, and/or buy.

Nixon questioned if there was an existing definition for “dwelling” in the township zoning ordinance

and stated if not, there should be. Also, he recommends including a timeline to Section 3.13 Dwellings to allow for the use of tents and RV's or similar for short term housing. This would take care of staff's question regarding kids sleeping in a tent or family members visiting and staying in a camper.

Miller questioned why the township zoning ordinance would reference the fact that you need a building permit or occupancy permit because those are not zoning issues but covered in the State Building Code and administered by the County Building Safety Department.

Motion by Noonan, seconded by Nixon, to forward the staff report, minutes and all comments to the Elmwood Township Planning Commission. Motion carried 7-0.

Zoom future meetings

Yoder said they have the option to live stream their meetings or they can post the video to the website the following day. Galla explained that there wouldn't be any participation from those viewing via Zoom. There isn't any back and forth and members can't participate by Zoom. The only way a member would be allowed to participate and vote would be if they are in the service. Galla said the County Board is currently the only board using Zoom for live video of their meetings. There is a separate video recording that could be posted to the county website the day after a meeting.

Discussion ensued and members agreed it was not necessary to continue with Zoom.

REPORTS

HAC

Galla reported they are working with Housing North and Zach Hillyer, the Housing Ready representative for Leelanau County, along with a couple developers. People are asking how to get assistance in building apartments or workforce housing. HAC will meet again in March.

PARKS AND RECREATION

Noonan commented on how quiet the park is right now. There isn't any snow to groom for skiing.

REPORTS from LCPC members

Nixon said Suttons Bay has a dog park now, they are expanding their parking lot, hopefully adding additional pickle ball courts and working on the budget.

Brush reported he is currently taking a four-part housing webinar.

Yoder mentioned that the Cedar recycling site was moved to Buntings Market and everyone involved seems happy that it is staying in the area and hopefully helping support the small business area.

COMMUNICAITONS – None.

PUBLIC COMMENT – None.

STAFF COMMENTS – None.

ADJOURN

Meeting adjourned by consensus at 6:37 p.m.