

A REGULAR MEETING OF THE LEELANAU COUNTY PLANNING COMMISSION WAS HELD ON TUESDAY, MARCH 28, 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, T. Nixon, C. Noonan, M. Black
T. MacDonald (5:32) B. Fenlon, M. Lautner

Members Absent: R. Brush, A. Trumbull, R. Miller
(prior notice)

Staff Present: G. Myer, Senior Planner

Public Present: S. Patmore

CONSIDERATION OF AGENDA

(MacDonald present)

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

CONFLICT OF INTEREST

Yoder noted he had a conflict of interest regarding “New Business Item #1”.
Nixon said he had a conflict of interest regarding “New Business Item #2”.

PUBLIC COMMENT – None.

STAFF COMMENTS

Myer said staff is still working on the Annual Report and will have it ready for next month’s meeting.

CONSIDERATION OF FEBRUARY 28, 2023 MEETING MINUTES

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

NEW BUSINESS

PC04-2023-10 Solon Twp. – Future Land Use Maps

Fenlon commented that the maps were confusing and he didn’t see what was changed. He questioned who controlled the Solon Township website. Yoder said the township clerk did and that he brought this up last year after staff’s informal review and nothing has changed.

Noonan asked staff to review their report.

Myer said this is a request to review and comment on the Solon Township Future Land Use Maps. The township planning commission held a public hearing on December 6, 2022 and following the public hearing passed a motion to forward the five Future Land Use Maps to Solon Township for their approval so that the maps may be distributed to adjoining townships and regulatory agencies for their review and comment. On January 12, 2023 the Solon Township board made a motion to approve to have the Future Land Use Maps forwarded for review and comments based on and consistent with the Michigan Planning and Enabling Act requirements.

Myer continued, saying that on February 28, 2023, the Leelanau County Planning Department received a letter dated February 16, 2023 stating that on January 20, 2023 a “Notice of Intent to Conduct Master Planning” was sent on behalf of Solon Township and that it had come to the townships attention the planning department did not receive this notice. The notice was resent to all interested parties by way of Certified Mail, Return Receipt Requested. A memorandum dated February 16, 2023 was distributed by the Solon Township Planning Commission to neighboring Local Units of Government and Leelanau County Planning for review of the Solon Township Future Land Use Maps. County Planning received this memorandum on February 28, along with the above-mentioned letter.

Myer said Solon Township has submitted maps for review and they are listed on the township website as Solon Township Future Land Use Maps – Drafts, and titled as follows:

Proposed Zoning Districts – Greater Cedar Area
Zoning Districts – The Four Corners
Zoning Districts – Allgaier Rd & M-72
Proposed Zoning Districts – Solon Rd & M-72
PUD Districts

The Master Plan on the township’s website is dated 2013. At least every five years after adoption of a master plan, a planning commission shall review the master plan and determine whether to commence the procedure to amend the master plan or adopt a new master plan. The review and its findings shall be recorded in the minutes of the relevant meeting or meetings of the planning commission. This doesn’t require a local municipality to do an update every five years, but it does require a review and then recording that decision in the minutes.

Myer read Section 43 of the MPEA (Michigan Planning Enabling Act) which states:
Approval of the proposed master plan by the planning commission under subsection (2) is the final step for adoption of the master plan, unless the legislative body by resolution has asserted the right to approve or reject the master plan. In that case, after approval of the proposed master plan by the planning commission, the legislative body shall approve or reject the proposed master plan. A statement recording the legislative body's approval of the master plan, signed by the clerk of the legislative body, shall be included on the inside of the front or back cover of the master plan and, if the future land use map is a separate document from the text of the master plan, on the future land use map. Staff is not aware if the Township Board has asserted its right to approve or reject the Master Plan under Section 43 of the MPEA. If the Board passes a resolution, then the final approval of the Plan Update will be taken by the Township Board. Otherwise, the planning commission has final approval.

In September of 2022, staff received a request for an “informal review” of materials for the township master plan. An informal review is a review staff offers to townships and villages in order to provide some comments and suggestions during the process of amending a zoning ordinance or a plan. It does not take the place of the review by the county planning commission as stated in the Michigan Planning and Zoning Act. Following an informal review, a local municipality still submits the township request

to the county once the township has completed its process. The county has a 30-day review period for changes to the zoning ordinance. In the case of an amendment to a Plan, the review period is 42 days. Staff prepared their informal review and it was sent to the Solon Township Planning Commission in October of 2022.

Myer continued, saying that much of the text comes directly from the informal review that staff completed in October. Staff noted that the maps are referred to as “Future Land Use maps” but they are labeled as “Zoning Districts” and “Proposed Zoning Districts and “PUD Districts.” While some communities have a Future Land Use Map that uses similar titles for the areas on the map as what you would see on a zoning map other communities identify the Future Land Use Areas by terms such as ‘high density residential’, ‘medium density residential’, ‘commercial corridor’, etc.

Myer said staff is not clear on what the township is proposing to change in the Master Plan. Usually, a Master Plan is submitted with changes to the text, and proposed changes to the Maps. The county has received Maps first, but the text is still being worked on. In addition, some of these maps are titled as Zoning Districts. Is the township changing its zoning map? We don’t think so, because that would require an amendment to the zoning ordinance, not the Master Plan. A cleaner title for each of the Maps would be beneficial, and it would eliminate the confusion between zoning designations, and land use designations in a master plan. Also, these maps reflect changes which were requested by various property owners over the last few years. As noted below, the township has several rezoning requests which have been held in abeyance, and these proposed maps appear to change the zoning designations on these properties. If these maps are presented as changes for the Master Plan, the township will still need to complete the rezoning process for each of these. The action by the Township Board on each rezoning will be final, unless properly petitioned and submitted to the Township for a referendum by the voters in the township.

Recent surveys or citizen questionnaires, as well as Census data, and other relevant studies should be utilized and documented to support decisions made for changes to the Plan. Is there a need for an additional number of acres for business or for high density residential and what is this based on? Was Census data was used for the proposed changes?

Myer continued, saying that the most recent document listed on the Solon Township website page is called Survey Results and it is from 2017. There is no identifying information as to who formulated this document or compiled it, or the date it was completed. This would be helpful, especially if the township or citizens had questions on the results or someone wanted to know how it was conducted. And while it’s not a requirement to be in a Master Plan, some communities have attached a copy of the entire survey and the responses in an Appendix. Myer noted that staff had been informed that a newer Survey was conducted in 2022, but staff has not seen the results, and they are not listed on the website.

Myer concluded by saying that staff is not clear on the maps that have been presented by the township and suggest that at a minimum, the title to the maps be changed to reflect that these are Maps for the Master Plan, and are not the zoning map. Another suggestion would be to eliminate the ‘current zoning districts’ at the bottom of these maps and identify if the areas are residential, high density residential, commercial, etc. Without the text changes for the Master Plan, it’s also difficult to comment on the designations on the PUD Districts map.

MacDonald questioned if it was customary to release the maps prior to the updated master plan? The maps should correspond with the text, so he doesn't know what to make of the maps alone.

Black asked Yoder if there was any pushback to these changes at the township meetings and if so, how firmly were the objections? Yoder said currently the Future Land Use Map in the Master Plan is exactly verbatim of the zoning ordinance map and that caused a lot of confusion. The public was saying they didn't have a future land use map because it was the same as the zoning ordinance map and that is where a lot of the changes came from. There was some opposition to the corridor map, but other than that, not much. Black questioned if there was any thought to matching the commercial development happening on the other side of M-72? Has the township looked at dual zoning? Does the PUD map fall in line with what was already there? Yoder said currently there isn't any PUD in the township, but their current zoning ordinance has language in there for PUD's. It used to be planned residential development. This was changed in the zoning ordinance so they are not reflecting that in their Master Plan. Yoder said they did have some objection on the commercial side, not necessarily on the PUDs.

Nixon stated that it was quite unusual to have zoning so clarified within a master plan. This struck him as odd that they are dealing with a master plan, yet they are looking at zoning maps. He also is having difficulty seeing the difference between the two maps on pages 19-20.

Lautner said she went to a few of the township meetings and what she gathered is that they have a few land owners that want changes and their zoning administrator said they had to amend the maps so they can change the master plan. It's a matter of what comes first, the chicken or the egg. It is her understanding that if they had to change the wording to match the maps, then that would follow. She is not sure if this is the right process or not. Lautner continued, explaining the map revisions and said in downtown Cedar they have very limited space for commercial. There has been some push for the smaller density housing, and Solon Rd. and M-72 where Grumpy's is, is already zoned, so the new zoning would be east of Solon Rd. It is currently an orchard and the owner requested this be rezoned to put some businesses in there. This seemed logical because it was adjacent to what's already zoned business. Lautner said when the Allgaier change was first proposed for the ten acres that parallel the business park there was a lot of opposition. It could be because of the process and they wanted to be involved. Lautner concluded by saying that they are not looking to develop anything in Solon Township as far as business. The public has not been open to much development in the township, so if the maps look a little odd, that is probably why. There has just been a lot of public opposition to any changes, period.

Nixon questioned if the township was amending or revising the master plan with these maps? Yoder said they were revising it. Lautner stated they were told they couldn't do the rezoning requests until they revised the master plan. Nixon said it is his understanding that the Master Plan is the vision, it's what you want to do, it's looking into the future and zoning is how you are going to accomplish those things that are required or expected or necessary to make that vision a reality.

Patmore commented that it does say that you have to include a zoning plan in the master plan, which is where things get blurry. Nixon said they seem to be mixing zoning questions with global visioning questions and he is still a little confused as to what the township is trying to do, and asking them to do in this request. He doesn't feel comfortable approving the maps if they are strictly based upon zoning. He would be more favorable towards them if they were based on evidence in the master plan illustrating how this area may need an amendment because growth is making alternatives that were not expected at the time the Master Plan was approved.

Motion by Black, seconded by Lautner, to recommend approval of the maps and to forward the staff report, minutes and all comments to the Solon Township Planning Commission.

Lautner said that if it drives some kind of a conclusion to this, she supports it. It has been a number of years and they have developers waiting to get this done.

Motion on the table carried 5-1. ~~MaeDonald~~ Fenlon opposed.

(Memorandum received from Tim Cypher, Solon Township Zoning Administrator, dated March 27, 2023, RE: Response to Staff Report PC04-2023-10 is on file with the Planning & Community Development Office)

PC05-2023-11 Suttons Bay Twp. – Rezoning Ag. to Residential

Myer said this request was to review and comment on a rezoning request from Gloria Korson for approximately 2.854 acres from Agricultural to Residential. Myer reviewed the existing land use and the adjacent land uses and zoning and stated this is part of a larger parcel which is approximately 12 acres total and is located on the south side of E. Lovers LN.

Myer continued, saying the Suttons Bay Future Land Use Map calls for Rural Residential and either Working Lands or Commercial Forest in this area. The colors on the map for Working Lands and Commercial Forest appear to be an identical light green. The Master Plan states the following: III. Goals, page 21, states “Uncontrolled growth into agricultural land also presents serious problems. Once agricultural land is developed, it is highly unlikely that it will ever be farmed again.” The Leelanau General Plan Future land Use Map 5-2a designates some of this area as orchards and vineyards. Community Types, Map 5-3a designates this area as Settlement.

Myer said a public hearing was held on March 7, at which time most of the public comments made were opposed to the rezoning. In addition, several of the surrounding neighbors submitted their disapproval of the rezoning request in writing. The planning commission passed a motion to deny the application for rezoning based upon application, Findings of Fact, rezoning factors, and public comment. Myer then reviewed the history saying previous action taken on this property included 71 acres entered in the Farmland and Open Space Preservation Agreement in 1988, per Act 116, PA 1974, and a rezoning request of 70 acres from Ag to Residential in 1997, which was denied. The subject property is no longer under the PA 116 Contract.

In June of 2010, a request was presented to the township to rezone approximately 2.24 acres from Agricultural to Residential (part of property number 45-011-023-011-00, and 45-011-023-002-00), to allow the owner to divide the property into two (2) parcels. The request was reviewed by the township planning commission and county planning commission, and then approved by the Township Board in July of 2010.

The rezoning of 2.24 acres in 2010 was approved for 2 residential lots, which also allowed an access to the farm property from Lover’s Lane. However, this access was changed from what the property owners submitted to the township with the rezoning request in 2010. The change resulted in the western portion of the property shifting and creating a zoning ‘void’, according to the township. In 2014, Gloria Korson received approval for a Land Division for the east lot. The west lot could not be approved because it was not entirely zoned residential. In 2014, Gloria Korson requested to rezone 85.52’ on the west side in order to make the 2nd proposed lot comply with zoning and correct an error that was made in the

boundaries following the 2010 rezoning.

Myer continued, saying there were no voluntary conditions included with the application and that it is important when reviewing rezoning requests to look at the current uses, the uses allowed in the proposed zoning district, the Master Plan, and the surrounding uses and zoning districts. Myer then reviewed the current uses permitted by right in the Agricultural District:

- A. One single family detached dwelling per lot
- B. Farming, including but not limited to dairying, raising grain, mint, and seed crops, raising vegetables, orchards, silviculture, raising nuts and berries, floriculture, raising ornamental trees, shrubs, and nurse stock, greenhouses, sod farming, apiculture, and aquaculture.
- C. Family day care homes
- D. Wildlife management areas
- E. Adult foster care family care homes
- F. Veterinary clinics

Zoning Amendment 14-002 permits the following in the Agricultural District:

- A. Duplex on parcels two acres (or larger)
- B. Up to five duplexes on one parcel given certain conditions are met.
- C. Multi-family housing (3 or more dwelling units per building) given certain conditions are met.

And the permitted uses in the proposed Residential District include:

- A. One-Family detached or semi-detached dwellings.
- B. Churches, Temples.
- C. Recreation Facilities of non-commercial nature.
- D. Adult Foster Care Family Care Homes.
- E. Accessory Uses or Structures.

Myer said the subject parcel is approximately 12-acres in total and under the current Agricultural zoning, a 2-acre minimum lot size is required for development. The proposed parcel division the applicant submitted shows two lot splits, both under two acres. The Residential Zoning District requires a 1-acre minimum lot size for development which would allow the applicant to make two splits from the proposed 2.85 acres being requested for rezoning. It is important to review the area the applicant is requesting for rezoning, and not the proposed divisions or the proposed access. If this rezoning is approved, the applicant will need to submit a land division request to the township and also obtain the appropriate approvals for any access.

Myer pointed out that the motion passed by the township planning commission included that the recommendation was based on ‘...*public comment*’ and said staff has included an excerpt from Michigan zoning, Planning, and Land Use, Chapter 11, Dos and Don’ts which pertains to this. The township should base its decision on the zoning ordinance regulations as well as the Master Plan, and the land use and development in the area proposed for rezoning. The minutes of the Public Hearing also include comments from the public on the information in the application, and neighbors not expecting development on this ag land when they purchased their property. An applicant has the right to propose a portion of their property be considered for rezoning, and the right to come back in the future to make

further requests. Purchasing a piece of property next to ag land, or next to any district, does not mean the property will stay in that zoning district forever. There are many things that can alter the zoning of a property such as: land is sold and a new use is proposed, different owners have different ideas for the property, or the master plan and zoning ordinance get amended. If you don't own the land, you can't guarantee that it will never be proposed for a change in zoning and/or use. In some cases, opposition to many of the uses allowed in the proposed new zoning district would suggest that a 'conditional rezoning' might be an option. With a conditional rezoning, the applicant has to offer the conditions and the township makes the determination if they will accept the conditions and approve the rezoning, or not accept.

Myer concluded by saying in this rezoning case, it appears that opposition of the neighbors was not based on the residential use the applicant was proposing, but on the fact that the zoning would no longer be agricultural. The township needs to review the request on consistency with the master plan, surrounding zoning, and land uses, and appropriateness of the district. As currently zoned, the applicant could do 2-acre splits in the agricultural district for residential development. If the applicant is requesting a smaller lots size, is it to preserve as much of the agricultural land as possible?

Lautner commented that she sees no reason not to approve this request.

Patmore clarified that the vote at the township was not unanimous as stated in the staff report. It was a 5-3 vote on a motion to deny the request. Three board members who are farmers voted no. Lautner said that it boils down to uses and if housing is a use, and she'd like to split it, it seems logical to allow it.

Noonan stated that it is hard to balance public sentiment. Is the public upset because they just don't want to see a change or is their validity to their concerns? It seems the public just doesn't want change. You still want the public to be heard, but in this case, it doesn't seem to be a factor. Patmore said if you are going to a public meeting and you are opposed to something, you should give the reason based on a certain standard.

Black brought up a Glen Arbor rezoning from a few years ago and how some people were adverse to change. When it went to a vote, the voters spoke entirely the opposite way of those few people. The reality is that change is inevitable, it's going to come. He'd hate to see a few people stop progress.

Patmore said single family homes are allowed in the Agricultural District, it's just a matter of what the density is. The adjacent properties are already subdivision with smaller lots. Patmore commented that he was surprised at how the vote went at the township. Black stated it could have been the makeup of the audience. Patmore said the motion included their reason, one of which was pointed out in the staff report, was "public comment". He appreciates the comments from staff pointing out the motion that was made.

MacDonald commented that the proposed rezoning is in keeping with the surrounding properties, there is nothing unusual about it and it's not likely to be farmed again.

Fenlon said there were a couple comments/letters in support. Generally, people that are opposed will show up, while people in support will not. Our obligation is to not get dragged into public comment. In his opinion it was a mistake to vote it down given the knowledge they have of the property and the surrounding area it seems to be a reasonable request. Fenlon mentioned rezoning with conditions. Yoder said a conditional rezoning is different. There were no conditions submitted with this application. Yoder doesn't have a problem with the rezoning request, as pointed out in the staff report,

it fits in with the surrounding area. Yoder mentioned the motion that was made and said that it is important to let the public be heard, at the same time you have to have “teeth” behind your motion.

Motion by Noonan, seconded by Lautner, to recommend approval, and to forward the staff report, minutes and all comments to the Suttons Bay Township Planning Commission. Motion carried 6-0.

PC06-2023-06 Glen Arbor Township – Text Amend. Ag. District

Myer reviewed the staff report saying this request to review and comment on the proposed text amendment to the township’s zoning ordinance was received on March 14. The Glen Arbor Master Plan does not specifically address this amendment and neither does the Leelanau General Plan. A public hearing was held on March 2, and after the public hearing, the township planning commission passed motions to approve the proposed amendment and forward to the Leelanau County Planning Commission for review.

Myer continued, saying the current Article IX, Section IX.3 reads as follows:

A parcel of land to qualify as a farm under this District shall consist of not less than three acres.

And the proposed amendment will amend this to read as follows:

The minimum land area for any use in the Agricultural District shall be three acres.

The current Section IX.4 reads as follows:

Each single-family dwelling with its accessory buildings shall be located on a legally described parcel of land of not less than one hundred thirty-one thousand square feet of area, if it is not built as a part of the main farm dwelling, with minimum road frontage of two hundred feet.

And the proposed amendment will amend this to read as follows:

Each parcel or lot shall have a minimum road frontage of two hundred feet.

Myer concluded by saying the draft minutes of the public hearing indicate that legal counsel advised the township to amend and clarify the minimum lot size and road frontage required for all used in the Agricultural Zoning District.

Fenlon commented that he sees no issue with the amendment, it’s pretty straight forward.

MacDonald stated that it looked good. Nixon and Lautner both saw no issues with the proposed amendment. Yoder said he applauds the township for cleaning it up, it reads a lot simpler.

Motion by Noonan, seconded by Black, to recommend approval and to forward the staff report, minutes and all comments to the Glen Arbor Township Planning Commission. Motion carried 7-0.

PC07-2023 Lake Township Master Plan Review

Myer briefly reviewed the staff report saying this request was received on March 16 and the requested action is to review and comment on the proposed Lake Township Master Plan. Township officials have been working on this update and sought input on the updated Plan by holding a public input session last year and by making an online survey available. The Plan was approved by the Lake Township Planning Commission and recommended for final action by the Lake Township Board of Trustees.

A memorandum dated March 6, was distributed by Lake Township Planning Commission to Leelanau County Planning for review of the Lake Township Master Plan Update 2023. The township has scheduled a public hearing on April 6, to receive any further input of comments on the Plan. Page 1 of the Plan documents the history and the update process.

Myer mentioned the Basis for Plan Review covered in Section 3 of the staff report and covered Section 4: Analysis. Myer said Chapter 5, page 4 recommends two possible changes to the townships zoning plan: The first possible change is the elimination of the Commercial Resort zoning district along Deadstream Road, and the second is whether the current residential zoning districts allow higher density housing than is desirable.

Myer continued, saying that a Master Plan is the vision of how a community will develop over time, providing guidance regarding how areas should be zoned, and standards that should be incorporated into the Zoning Ordinance. The Master Plan on the township's website is dated 2010. At least every 5 years after adoption of a master plan, a planning commission shall review the master plan and determine whether to commence the procedure to amend the master plan or adopt a new master plan. The review and its findings shall be recorded in the minutes of the relevant meeting or meetings of the planning commission.

Myer concluded by saying that in the summer of 2022, the township conducted an online survey which was also available in a paper version and a total of 129 responses were received. While it's not a requirement to be in a Master Plan, some communities have attached a copy of the entire survey and the responses in an Appendix.

Nixon commends the person responsible for the photos, they are beautiful. He suggests taking another look at the document and maybe adding some accent colors to make it more interesting and appealing.

Black questioned the two lakes, Platte Lake and Crystal Lake, and asked if they were talking about any frontage on these lakes. Fenlon said he thought it was a concern, they didn't actually propose to change it. He remembers reading that most of that property is already owned and there is little to no chance for development because of the homes built there.

Fenlon said he was a little confused, it's almost like they answered their own question about housing density with the various data within the plan. It sounds like there is really not much in the way of opportunity for development so he found it strange that it was a concern of theirs. Fenlon also questioned why they change the commercial resort zoning, unless they want to eliminate it, it doesn't sound like it is an issue or even being used.

Motion by Noonan, seconded by Nixon, to approve, and send comments and staff report to Lake Township motion carried 7-0.

Membership

Yoder explained that they had received an application from Craig Brown who is interested in filling the vacancy on the board under the Transportation Category.

Motion by Lautner, seconded by Nixon, to recommend to the county board, to appoint Craig Brown to the Planning Commission, Transportation Category. Motion carried 7-0.

Topic for Annual Planning Session

Yoder asked members for suggestions.

Lautner mentioned Proposal A, because we might be losing it. People don't understand how our taxation works, or a millage. Also, at some point they could repeat the session on the Right to Farm Act.

Nixon said many people are confused between assessment and taxing. This could be a good topic. Also, possibly a panel who have been successful in guiding tourism, selling or managing this issue.

Black mentioned FEMA and flood plain. There are new maps putting lakefront properties under water which requires flood insurance.

Fenlon suggested STR's and sustainable solutions to housing.

Noonan suggested drainage districts and how they operate and affect people.

REPORTS

Housing Action Committee

Lautner reported that there was a nice turn out for the ribbon cutting ceremony for the first home in at the Maple City Crossings. The Marek Rd. project is moving forward. The committee also discussed goals and funding.

Parks & Recreation

Noonan said they are starting the plan review process for Myles Kimmerly Park and there is a lot of motivation from the new members. They did not get support from the County Board that they were hoping for the walking trail. Lautner spoke regarding this one-mile loop and how great it would be for the community.

REPORTS from LCPC members

Lautner attended Kasson Townships annual meeting which was lightly attended. She also attended Solon Townships annual meeting and the fire chief gave a great report on the Cedar area fire and rescue. They received \$30,000 for the Solon parks and drainage districts were also discussed. They

don't have the incomes to support this.

COMMUNICAITONS – None.

PUBLIC COMMENT – None.

STAFF COMMENTS – None.

ADJOURN

Meeting adjourned by consensus at 6:58 p.m.