

**LELAND TOWNSHIP PLANNING COMMISSION SPECIAL MEETING**  
**Tuesday, May 19, 2009**  
**Leland Township Office**  
**112 W. Philip St., Lake Leelanau, Michigan**

**MINUTES**

**PRESENT:** Planning Commissioners Keith Ashley (chairperson), Gary Bardenhagen, Glenn Gotshall, Jane Keen, Jon Stimson, Skip Telgard; Planner Mary Campbell, Attorney Mardi Black, Zoning Administrator Tim Cypher

**ABSENT:** Planning Commissioner Kim Brant

**GUESTS:** 22

**CALL TO ORDER:** Mr. Ashley called the meeting to order at 7:05 p.m.

**APPROVAL OF AGENDA:** Mr. Telgard moved to approve the agenda as presented; supported by Mr. Stimson. Motion carried.

**DECLARATION OF POTENTIAL CONFLICTS OF INTEREST:** None.

**APPROVAL OF MINUTES—May 6, 2009:** Ms. Keen moved to approve the minutes as presented; supported by Mr. Bardenhagen. Motion carried.

**PUBLIC COMMENT**

Nick Lederle (Leland) expressed his view that ridgeline development standards would create nonconforming uses, lowering sales values and adding costs for the owner. He also reiterated his concern about parking-space screening standards. He felt the public would be interested in commenting about many aspects of the ordinance. Mr. Ashley encouraged the public to attend meetings, all of which are open.

Dave Couturier (Lake Leelanau) asked if more public comment would be accepted on the ridgeline issue. Mr. Ashley said the commission will review public comment, and tonight will not be the last time the topic is discussed.

Gil Bogley (Lake Leelanau) said Leelanau and Glen Arbor townships address ridgelines in their ordinances, and he hoped the Planning Commission is looking at those documents.

**REPORT FROM TOWNSHIP BOARD REPRESENTATIVE:** None.

**REPORT FROM ZBA REPRESENTATIVE:** None.

## **BUSINESS**

### **RIVERTOWN LELAND SLU APPLICATION**

#### **Findings and Conditions Document**

**Action:** Mr. Bardenhagen moved to approve the findings and conditions document subject to the conditions being met; supported by Mr. Telgard.

#### **Draft PUD Agreement and Order Granting Approval**

Ms. Black recommended that any Planning Commission approval of the project be contingent on the following items, which are to be finalized:

- Section IIIA, Page 2—Updates to come.
- Item 6, Page 4—Condition will be deleted because survey dimensions have been updated.
- Section III, Page 9—Conditions for Modification of Master Deed/Bylaws has been added as a place-marker, in case it is needed.
- Section IV, Page 9—Conditions that Relate to Site Plan Documents: Ms. Black will check with Ms. Campbell and Mr. Cypher.
- Section IV.A.4, Page 6—At the May 6 meeting, Ms. Black had recommended adding a deadline of December 31, 2009, for the developer to record the final approved Master Deed and Bylaws. If the deadline is not met, the developer would be required to seek an extension from the Planning Commission.

**Discussion:** Ms. Keen requested that the beginning of section IV.A.4, page 6, be changed to read, “Approval by the Planning Commission Township Attorney of the final Master Deed and Bylaws following a successful review by the attorney. . . .” She also questioned the need for the 12/31/09 deadline; Ms. Black said it would assure that the developer returned to the Planning Commission to explain any outstanding issues.

**Action:** Mr. Bardenhagen moved to approve the PUD Agreement and Order Granting Approval, contingent on completion of section IIIA of the findings and conclusions and on completion of all conditions set forth in the order; supported by Mr. Gotshall. Motion carried.

### **ZONING ORDINANCE—RIDGELINE DEVELOPMENT**

Mr. Ashley read a list of discussion questions from Ms. Campbell.

**Question 1: Should ridgeline development be regulated in the Leland Township Zoning Ordinance?** Discussion focused on recommended versus mandatory standards; Ms. Campbell said recommendations are not enforceable. Ms. Keen asked what constitutes a house on a ridgeline. Mr. Telgard said he felt the ordinance should address “dominant ridge” (the last visible ridge), not all ridges on a property. Ms. Campbell said Leelanau Township has been working with the dominant ridge concept. She asked whether the determinant should be elevation or percentage of slope. By absence of comments to the contrary, Mr. Ashley said he inferred that the Planning Commission favors regulating ridgeline development in some fashion.

**Question 2: From your perspective, what should be the objectives for any ridgeline development regulations? (Are the other agencies adequately regulating, protecting and/or addressing the natural resource concerns and any objectives listed above?)**

Mr. Bardenhagen noted that other agencies' concern is erosion, not aesthetics. Mr. Telgard suggested drafting a definition for "dominant ridge." Ideally, he said, regulations would not interfere with the property owner's views and property values. He suggested giving owners the option to build lower on a ridge or to stay on top of the ridge, provided trees are planted. Ms. Keen read section 7.3.1.F from the township Master Plan: "Provide options that encourage new construction to be sited below the ridgeline and encourage the preservation of existing wooded areas or planting of trees to provide filtered views. Mr. Ashley read from a handout, "Possible Ridgeline Descriptive Phrases." Mr. Cypher said according to the Leelanau Township zoning administrator, no issues have been raised since the ridgeline standards were adopted in 2004. Mr. Ashley said the proposal deals more with trees on the side of a house than in front of it. Mr. Cypher suggested requiring standards at least for SLUs and PUDs, as well as with land divisions. As to nonconforming uses, Mr. Cypher said homes that were issued a certificate of occupancy before an ordinance is adopted are exempt from requirements. Mr. Ashley said one objective could be to exempt existing dwellings with a certificate of occupancy.

**Ridgeline Public Comment**

Mr. Lederle said he felt zoning primarily addresses land use, but that ridgeline restrictions are subjective and encroach on people's rights.

John Fitzpatrick (Lake Leelanau) said comments on property rights have focused on the value of property to be built, and that properties already built also should be a concern.

Kathy Turner (Lake Leelanau) said with the rate of population growth and the great number of ridges in the township, people will build on ridges. She added that without a vision, the beauty of Leland Township could be destroyed forever.

Mr. Couturier said with enough money, people can build houses anywhere they want. Enforcement is an issue, too, he said. He favored not addressing ridgelines.

Wayne Tyge (Lake Leelanau) said adopting one group's idea of what is aesthetically pleasing is a slippery slope. As an example, he said, Fishtown could never happen today.

Mr. Fitzpatrick said he doesn't feel standards must be arbitrary. Many members of the Lake Leelanau Lake Association feel there's value in defining simple rules that allow development to a point. Most people favor development within reason, he said.

Mr. Lederle said the 1980 Zoning Ordinance was short, simple and noncontroversial. Ms. Keen responded that whenever restrictions are imposed, someone is unhappy—as in the 1980 restriction on living in a trailer for more than three months, for example.

Linus Couturier expressed concern about the difficulty for young people of making a living and building a home in the county.

Mr. Bogley said ridgelines should be regulated within reason because they are part of the township's natural resources. He added that ridgeline development restrictions can help protect home values, and that the Leelanau Township model is a good one.

**Question 3: Should any ridgeline regulations apply to all ridgelines? Only ridgelines associated with steep slopes (>24%)? Only ridgelines over a specified elevation? Some other designation? If so, what?**

Mr. Telgard said "dominant ridgeline" is easy to define. He read the Leelanau Township definition: "The dominant ridgeline is defined as a line, including vegetation, at the top of a hill or hills, which background is open sky as seen from a public road. . . ." Ms. Campbell said Leelanau Township requires ridgeline structures to be on a downgrade if not screened by natural plantings. Members discussed the idea of focusing only on living trees instead of vantage points (the lake or the road).

**Question 4: Should property owners be encouraged and/or required to place structures below the crown line of trees?** The consensus was that property owners should not be required to place structures below the crown line of trees.

**Question 5: Should retention of trees and/or planting of trees be part of any ridgeline development regulations?** Consensus: yes.

**Question 6: Should the 50-foot setback requirement from a ridgeline, in the current Zoning Ordinance, be kept in the regulations? Is any clarification needed?** Consensus: no.

**Question 7: Are the current definitions of steep slope and ridgeline appropriate? If not, what changes do you propose? Is there a need for a definition of dominant ridgeline?** Consensus: a definition of "dominant ridgeline" is needed, and that a good model is the Leelanau Township definition, ending with "as seen from a public road."

Ms. Campbell will draft options for consideration at the next meeting, as well as a map denoting ridgeline property in Leland Township.

Ms. Campbell asked whether a definition of "steep slope" is needed. Mr. Telgard suggested a steeper criterion; Mr. Bardenhagen suggested deferring to the Soil Conservation District. Ms. Campbell will create a document and illustrations, including a frontal view of a home on a ridge, for the next meeting.

**PUBLIC COMMENT**

Logan Hardie (Leland) said everyone is concerned about inalienable rights, but we also need to be aware of the rights of those living around us. He advocated for protecting what exists in Leland Township and expressed support for the Planning Commission's work.

Mr. Couturier said he remains opposed to regulating ridgeline development, partly because of enforcement issues. Mr. Ashley said the Planning Commission realizes the ordinance cannot make the zoning administrator's job impossible and that the requirements must be easily understood by property owners.

Mr. Mikowski said he felt rewriting the ordinance is wasted effort without a lawful petition.

**OTHER BUSINESS:** None.

**NEXT MEETING:** Wednesday, June 3, at 7 p.m., Leland Township Office. The agenda will include Rivertown follow-up, if needed, and continuing discussion on ridgelines. Only one meeting per month is anticipated for June, July and August.

**ZONING ADMINISTRATOR COMMENT:** None.

**PLANNING COMMISSION COMMENT:** None.

**PUBLIC COMMENT**

Mr. Lederle asked for a legal opinion on what constitutes spot zoning. Mr. Ashley said he would consider asking Ms. Black to discuss this topic at a future meeting. Mr. Cypher said a key criterion of spot zoning is that the zoning is inconsistent with that of the neighboring properties. He added that the Planning Commission went the extra mile to change the zoning ordinance to accommodate the Leland Lodge.

**ADJOURNMENT:** Mr. Telgard moved to adjourn the meeting; supported by Mr. Gotshall. Motion carried. The meeting was adjourned at 9:40 p.m.

Respectfully Submitted,

Susan M. Buxton  
Recording Secretary