

**LELAND TOWNSHIP PLANNING COMMISSION MEETING**  
**Wednesday, May 6, 2009**  
**Leland Township Office**  
**112 W. Philip St., Lake Leelanau, Michigan**

**MINUTES**

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

**ABSENT:** Planning Commissioner Jon Stimson

**GUESTS:** 20

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

**APPROVAL OF AGENDA:** Ms. Brant moved to approve the agenda as presented; supported by Mr. Gotshall. Motion carried.

**DECLARATION OF POTENTIAL CONFLICTS OF INTEREST:** Mr. Telgard declared he had a conflict with item 2, Bluebird Restaurant Addition Site Plan Review. He said he would excuse himself from that part of the meeting.

**APPROVAL OF MINUTES—April 14, 2009, Public Forum and Special Meeting:** Mr. Bardenhagen moved to approve the minutes as presented; supported by Ms. Brant. Motion carried.

**PUBLIC COMMENT**

Nick Lederle (Leland) expressed concern about the procedure being followed to write the new zoning ordinance and asked to see each proposed ordinance section as written. Mr. Ashley said definitions are the only section close to completion; Mr. Lederle requested a copy of the definitions when they are in final form. He also commented on the proposed Fishtown Historic District zoning amendment.

Bruce Price (Lake Leelanau) commented on ridgelines and said he felt the township should go back to the 1980 zoning ordinance.

Wilma McQueen (Lake Leelanau) asked whether audience inputs from the April 14 ridgeline development public forum would be considered in writing the ordinance.

Barbara Abbott (Lake Leelanau) said she thinks people like the way things look now without developments on ridgelines.

Dave Couturier (Lake Leelanau) said he thought ridgeline development restrictions should be eliminated.

Terry Bishop (Lake Leelanau) requested a timeline for completing work on the zoning ordinance and asked how the public would know when documents are ready for review. Mr. Ashley urged him and others to attend the twice-monthly meetings and read the agendas minutes on the township Web site.

Tom Alflen (Leelanau County) asked for a description of form-based zoning and expressed concern about the ridgeline development issue.

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

**REPORT FROM ZBA REPRESENTATIVE:** None.

## **BUSINESS**

### **RIVERTOWN LELAND SLU APPLICATION**

#### **Findings of Fact (5/6/09 Version)**

**3.06 (Performance Guarantee):** To be discussed as part of conditions.

**6.03B:** Per Scott Jozwiak for the developer, the plans will be sealed if no changes are required tonight; condition to remain.

**6.03B1:** Condition is met based on the Township Board's approval on April 20; remove condition.

**6.03B7:** Condition is not required for other wells; therefore, removed.

**6.03B8:** The condition remains. Developer Gene Kelly outlined the criteria for final abandonment of Cedar Street: completion of the real estate transfer, all county possessions moved off the site, drainage easement from Grand Avenue to Leland River (met), walkway between S. Grand and S. Chandler (met), utilities easement (met with blanket easement to Consumers).

**6.03B10:** Final approvals from DEQ, Health Department and sewer authority are pending; condition requiring easements from property owners within well isolation distance is met.

**6.03B15:** Condition remains (Drain Commission has approved; Road Commission has approved conditional on three items).

**6.03B16:** Pending Drain Commission and Road Commission final approvals.

**6.05B:** Pending information on type and size of trees to be preserved.

**6.05D:** Condition to read, "Fencing shall not extend into the reduced 10' front setback along Chandler Street."

**6.05E:** Pending letter of review from Leland Township Fire & Rescue chief.

**6.05I:** Pending Road Commission approval.

**6.05N:** Pending DEQ and Soil Erosion permits.

**6.05O2:** Condition remains open; also, add Health Department approval as part of the condition.

**7.01:** Closed contingent on final staff review.

**7.01A:** Closed contingent on final staff review.

**7.01A1f:** Closed.

**7.02A2.4:** Closed based on written statement received today.

**16.01A3b:** Pending.

**16.01A3d:** Change condition to require Brownfield Authority final closure plan documents.

**16.01A3f:** Closed; covered in Master Deed.

**16.01A5:** Pending.

**17.01C3:** Closed.

**17.01E1:** Closed.

**17.01E1a:** Amend first paragraph to include setbacks for units 2A and 3A as specified in the March 4, 2009, Planning Commission minutes. Provision to list conditions for this section on the site plan and Bylaws is met.

**17.01E2f:** Closed; change finding to read, "The dedicated open space is privately owned by the owners of units 1-4." **Action:** Ms. Keen moved to waive the requirement to have the dedicated open space accessible by all units; supported by Mr. Gotshall. Motion carried.

**17.01F2:** Closed; covered in Master Deed.

**17.01G:** Closed; in Master Deed and site plan.

**17.01H5:** **Action:** Mr. Bardenhagen moved to waive the requirement for a project perimeter; supported by Mr. Telgard. Motion carried; condition closed.

**17.01I2:** Pending.

**17.01I3:** Pending.

**21.04B:** Based on discussion, Ms. Black will reword the condition to note that each unit will put in curb cuts and provide documentation to the zoning administrator.

**21.04F:** Closed based on wording change to parallel change for 21.04B; also change “consulting planner” reference to “zoning administrator.”

**23.03.7:** Pending marks on site drawings to denote size and types of existing trees to remain.

**23.03.9:** Cross-reference with Master Deed.

**23.04:** Pending.

**23.06:** Pending.

**23.07A:** OK as written; conditions remain.

**23.09A:** Closed.

**24.06A:** Pending.

**24.06B:** Pending.

**24.10A1:** Delete language in Conditions column on last page and move PC Findings content to Conditions column.

### **Conditions of Approval**

- **Performance Guarantee:** Mr. Ashley read Zoning Ordinance Section 3.06A. Mr. Cypher read the list of improvements covered under the section. He noted that in the case of Provemont Village, no performance guarantee was required because of the number of conditions required by other agencies. The Drain Commission requires a bond for the drainage swale, and a Road Commission bond is to be determined. Ms. Black said a Rivertown performance guarantee would be for maintenance between the time of the brownfield cleanup and the sale of the units.

Mr. Telgard said he saw no need for a township performance guarantee. Steve Chambers, attorney for the developers, said the Master Deed and Bylaws require the developer to maintain the property until the units are sold. Ms. Black said the fact that the issue is addressed in the Master Deed and Bylaws doesn't necessarily give the township a way to enforce the maintenance provision.

Mr. Gotshall moved to specify a performance guarantee in the conditions of approval. Ms. Keen strongly opposed such a requirement. The motion died for lack of support.

- **Fencing (12):** Substitute “natural materials” for “wood construction [or have a wood appearance].”

- **Decks (14B):** Deck area confirmed.
- **Docks (14C):** OK as drafted.
- **Shoreline Vegetation Strip (14D):** Delete “elevated walkways”; otherwise, OK.
- **Maintenance of Dedicated Open Space (14F):** County no longer has maintenance obligations at the site (section ii); no bond will be required (section iv). Mr. Ashley asked about possible erosion issues if the developer took the project no further. Mr. Cypher said the Soil Erosion department requires grass to be planted.
- **Additions to Conditions Document**  
Ms. Black recommended that the Rivertown PUD Agreement and Order Granting Approval and the conditions specify that the PUD is approved under Leland Township Zoning Ordinance 96-1, with all its amendments.

Ms. Black also recommended that approval of the Master Deed and Bylaws be contingent on a final staff review in order to assure that DEQ, Road Commission and Soil Erosion permits are in place before the documents are recorded.

If the Planning Commission approves the Rivertown project, Ms. Black recommended requiring that the final Master Deed and Bylaws with all elements in place be recorded no later than December 31, 2009.

### **Master Deed and Bylaws**

Ms. Black said this is the last version provided by the applicant’s attorneys, with her comments incorporated. Ms. Black’s input focused on assuring consistency with the Leland Township Zoning Ordinance and mechanisms of enforcement by the township, among other things.

**Action:** Ms. Brant moved to approve the Rivertown Master Deed and Bylaws with changes as substantially presented for purposes of presentation to the DEQ and the Road Commission, with the right for further staff review and final Planning Commission review at the next Planning Commission meeting. Motion supported by Ms. Keen. Motion carried.

### **BLUEBIRD RESTAURANT EXTERIOR ADDITION—SITE PLAN REVIEW**

Mr. Telgard moved to the audience.

Mr. Ashley noted that the applicant (Mr. Telgard) is seeking approval for an outdoor service area along the south side of the Bluebird Restaurant in a manner that would conform to the setbacks of the C-1 zoning district. The area would be about 30 feet back from the river’s edge, measure 20 feet wide by 50 long and be set at the existing grade. In addition, Mr. Telgard has requested a waiver to Section 6.03B of the Zoning Ordinance.

Mr. Cypher read Section 12.01D8 of the ordinance, which specifies that off-street parking and loading apply to newly established C-1 districts but not to existing C-1 districts. Mr. Ashley said Mr. Telgard provided a site drawing but asked for a waiver of other

requirements in Section 6.03B. Mr. Cypher said no soil erosion permit will be required, per Drain Commissioner Steve Christensen. In effect, Mr. Cypher said, the application is to change the use from parking lot to seating.

**Action:** Mr. Bardenhagen moved to waive the requirements requested based on the findings submitted; supported by Mr. Gotshall. Motion carried.

**Further Action:** Mr. Gotshall moved to approve the application for the Bluebird Restaurant exterior addition, subject to Michigan Liquor Control Commission approval; supported by Ms. Brant. Motion carried.

### **ZONING ORDINANCE**

Because of the late hour, the item was deferred to the next meeting, which was set for Tuesday, May 19, at 7 p.m., Leland Township Office. The sequence of the agenda will be: Rivertown, Ridgeline continuing discussion, Zoning Ordinance continuing discussion.

**OTHER BUSINESS:** None.

**PLANNING COMMISSION COMMENT:** None.

### **PUBLIC COMMENT**

Mr. Lederle reiterated his concern about the Fishtown Zoning Ordinance amendment, adding he thought the Planning Commission should get a legal opinion on this.

Mr. Bishop asked if ridgeline development could be first on the May 19 agenda. Mr. Ashley said Rivertown would be covered first because the Rivertown developers had invested greatly in moving the project through the approval process.

Madeline Houdek (Lake Leelanau) asked about preview materials. Mr. Ashley said meeting minutes are available on line, and a Google search on ridgeline development would return volumes of results.

**ZONING ADMINISTRATOR COMMENT:** Mr. Cypher's April report is on file at the Leland Township Office.

**ADJOURNMENT:** Ms. Keen moved to adjourn the meeting; supported by Mr. Telgard. Motion carried. The meeting was adjourned at 10:10 p.m.

**NEXT MEETING:** Tuesday, May 19, 7 p.m., Leland Township Office.

**JUNE MEETING:** Wednesday, June 3, 7 p.m., at the Leland Township Office.

Respectfully Submitted,

Susan M. Buxton  
Recording Secretary