

WRITTEN PUBLIC COMMENTS RECEIVED

SETH ROAD REZONING REQUEST

LEELANAU TOWNSHIP

DECEMBER 2022

Rezoning of Seth Rd property

Donald Les <djles@att.net>

Wed 9/7/2022 8:18 PM

To: Steve Patmore <zoning@leelanautownshipmi.gov>

Leelanau Township
c/o Steve Patmore, Zoning Administrator
119 E. Nagonaba St.
P.O. Box 338
Northport, MI 49670

To the Board:

The request to rezone the large parcel of agricultural land on Seth Rd to become residential is ludicrous. Since when can someone from out of the area buy a parcel of land simply for potential profit and expect that the zoning board will routinely approve its rezoning? We live here surrounded by vast orchards and meadows and have been fortunate to purchase small amounts of property that were zoned for residence in the first place. Nobody wants to see accelerated development in this area, including The Leelanau Conservancy, which also is a stakeholder here. Allowing such a rezoning would destroy the serenity of the area, preclude future agricultural development, destroy natural habitat and resources, and accelerate the deterioration of the road, which is a lifeline to the areas' residents. I hope that you all have the sense not to cave in to someone who is willing to put all these things in jeopardy just to make a quick buck. He should have thought of this before dropping more than a million on the property. Please remember that it is the residents of this township that you are here to help and support, not some guy who would leave us with all loads of negative baggage in the wake of his development.

Respectfully,

Dr. Donald H. Les
Jane E. Les
E Seth Rd

Rezoning Seth Road (27.2 acre parcel)

Ken Arnt <kenarnt@gmail.com>

Wed 9/7/2022 5:42 PM

To: Steve Patmore <zoning@leelanautownshipmi.gov>

September 7th, 2022

Leelanau Township
c/o Steve Patmore, Zoning Administrator
119 E. Nagonaba St.
P.O. Box 338
Northport, MI 49670

Good Afternoon Board,

My name is Kenneth Arnt and I own property directly south and adjacent to the proposed parcel split. I first would like to note that there is a recorded non buildable 200 foot setback easement from my Eastern property line that was not addressed in the proposed split application. Secondly I would like to address the misrepresentations in the application. In the application it states that the land use to the north and south are residential. To the north there is a large 11.84 acre agricultural property owned by Patrick McCarthy with no residence. To the south is my property, home and barn consisting of 12.5 acres and an orchard owned by Patrick McCarthy of 26.4 acres with no residence. To the East is a 40 acre parcel owned by Patrick McCarthy with one residence. The parcel in question has either been an orchard or known as the high meadow which is consistent with the agricultural designation and character of the property and its surroundings. I feel denigrating the agricultural quality of this property so the argument of a R1 designation could be obtained is very questionable.

Currently there are 12 residences served by the private road (Old Farm Road) and an additional 30% (4 residences) would be untenable. The difficulty of maintaining the road are compounded by its slope, runoff, drainage and usage. I feel the road in its current state is at maximum capacity and any additional traffic would be catastrophic and make it impassable in the winter, spring thaw and heavy rains. The segment of the road with the greatest propensity for damage is leaving Seth road to Old Farm road to the top of the hill at the Peterson House. The Easement for Old Farm Road runs through the Garthe Farm which is in the National Resource Conservation Service (NRCS) and Leelanau conservancy. I have been in discussion with the Leelanau Road commission for years on changing the segment of road to the top of the hill to a county road but the road commission would require the road to be a paved surface and National Resource Conservation Service (NRCS) and the Leelanau conservancy will not allow an impermeable road to be constructed on their land hence the impasse.

An issue that was not mentioned at the first meeting that needs to be addressed is the watershed from this property. The buildable area of this parcel slopes to the east and north and the watershed ends up running to the north and exits across the Holmes property and over a high erosion Bluff. The Holmes house is in a precarious position currently and any additional

watershed/runoff from the division of the parcel could hasten its demise with the house falling into the bluff. The current agricultural state of the land allows the slow flow of water and minimizes runoff.

On a final note, it was mentioned at the first meeting by Mr. Grobbel that Cris Amann paid \$1.25 million for this property and he needs to do this division to make this work and recoup some of his cost. I found that statement very offensive. I don't care if he paid 20 dollars or 20 million dollars for the property, the rules apply equally to everyone. The board should feel no pressure or obligation to treat anyone any differently based on how much they paid for the property. Thank you for your time and consideration.

Respectfully submitted,

Kenneth Arnt
260-333-2828
drkwarnt@gmail.com

Sue and Bill Fales
10011 Old Farm Rd
Northport, Michigan 49670
Phone: 269-998-2167 or 269-873-1096

September 8, 2022

Leelanau Township Planning Commission
c/o Steve Patmore, Zoning Administrator
119 E. Nagonaba St.
P.O. Box 338
Northport, MI 49670

RE: Opposition to Rezoning Request for Seth Road

Dear Commissioners:

We are writing to express our continued opposition to the current proposal before the Planning Commission to rezone property located on Seth Road/Old Farm Road. We are the owners of the property located immediately to the southeast at 10011 Old Farm Rd. We appreciate the opportunity to comment on this matter at the Commission's last meeting. Our hope with this letter is to express our continued concerns associated with this proposal and to ask the Commission to consider denying this request.

At the August 25th Commission Meeting we heard Dr. Christopher Grobbel, the owner's land agent, argue in favor of the proposal. While we are somewhat sympathetic to the business/investment considerations he raised on behalf of his client, we strongly believe that there are several other very important considerations that should be considered by the Commission regarding this rezoning request. We would like to share several of these concerns with you.

Our first and primary concern that we spoke of at the last meeting is the impact that this rezoning and planned subdivision of the property will have on Old Farm Road, the private dirt road that is the sole road to access our home. This road is challenging to maintain and is frequently prone to washout. This road currently serves 12 homes. We fear that having this road serve an additional 4 residences would have a major adverse effect on the road, potentially contributing to impeding access by emergency vehicles, potentially jeopardizing the safety of us and our neighbors. Additionally, it is our understanding that a portion of the road which runs through the Garthe Farm which is part of the Leelanau Conservancy. As such, the Conservancy has a prohibition on paving the road, thus limiting the ability to modernize this road to allow for the additional traffic.

An additional concern was brought to our attention after the last meeting involving the potential for the threat of serious erosion that could jeopardize our neighbor's home to the north of this property. The water drainage from this property flows northward towards the Holmes house. We are concerned that more extensive development of this property could potentially increase the water runoff resulting in increased erosion that could potentially jeopardize the Holmes house located close to the edge of the bluff.

In addition to these concerns, there were a number of points made by Dr. Groebbel and/or described in the written petition to the Commission that raise some further concern regarding the accuracy of the petition which we believe is inconsistent with the good intent we expect with this type of rezoning application.

In Dr. Groebbel's previous remarks to the Commission, he reaffirmed the portion of the petition which states in part "the parcel does not possess significant agricultural value" and that "the subject parcel is not suited for large-scale agricultural or horticultural production." These statements were refuted by the Planning Commission Chairman and others. Additionally, while the table in the petition does describe nearby property that is residential, it fails to mention the property to the north and south with active orchards. We believe statements such as these misrepresent the property and its potential for agricultural use.

In the petition (item 5) states, "The proposed residential use can be established and adequately built on four (4) proposed future residential lot splits." This was reaffirmed in Dr. Groebbel's statements. An additional public comment was made by a real estate agent who advised he had a client wishing to purchase two of the four lots with the intent of building a house and (I believe) gardening. This gave the impression that the parcel could be limited to just 3 houses. However, our understanding is that if the parcel were to be rezoned as R1 there could potentially be significantly more than four houses placed on land suitable for development. From Mr. Patmore's comments at the August 25th meeting, the property owner is able to offer voluntary stipulations on the rezoning request (e.g., restrict development to only three houses). While the concerns raised above would still be valid, decreasing from four to three houses would be less impactful. Could the owner further stipulate that the original subdivided lots could not be further subdivided? Since the August 25th meeting, has the Commission received any communications from the owner or Dr. Groebbel proposing some form of voluntary stipulation. This would represent a sensitivity to the impacted neighbors and a willingness to compromise.

August 8, 2022

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Finally, Dr. Groebbel indicated in his presentation on August 25th that he had reviewed the topography of the land with the Michigan Department of Environment, Great Lakes, and Energy (EGLE) and that they did not have concerns regarding building on top of the bluffs. We do not necessarily doubt this claim but noticed that there was no documentation to this effect included in the petition. Can Dr. Groebbel provide the Commission with some form of documentation regarding EGLE's position?

In closing, we hope that we have effectively expressed our concerns and questions regarding the application for rezoning of this property. It is our understanding that zoning exists to protect the broad interests of the township but also to protect the interests of property owners within the affected area. We do not believe zoning changes should be made primarily for business or investment reasons. We very much appreciate the opportunity to express our concerns both virtually to the commission and in writing. Thank you for considering our concerns. We will respect the decision of the Commission in this matter. We appreciate the service provided by the Commissioners and Mr. Patmore to Leelanau Township.

Sincerely,

Sue and Bill Fales

cc: Steve Patmore, Zoning Administrator

Rezoning Request of Parcel 008-232-014-00

Jonathan Peterson <jpeterson93@gmail.com>

Thu 9/8/2022 10:57 AM

To: Steve Patmore <zoning@leelanautownshipmi.gov>

Leelanau Township

c/o Steve Patmore, Zoning Administrator

119 E. Nagonaba St.

P.O. Box 338

Northport, MI 49670

Good morning, Board,

My name is Jonathan Peterson, and we own the two parcels to the north of James Holmes property. The parcels are under the Ray & June Peterson Trust. The addresses are 9627 Seth rd. and 9631 Seth rd. We are very concerned about the rezoning requested by Chris Amann.

First point is the current easement road already has high traffic on it and adding any more would over burden the road. We are the first property on the road, and we see all the traffic.

Second point, they claim that the properties to the north and south are zoned residential. Which is not correct. Patrick McCarthy's property as well as ours is zoned agriculture.

Third Point. We have an active cherry orchard on our property and the ground conditions are very similar to the property in question. The claim that the parcel does not possess significant agriculture value is miss leading. McCarthy's property that is adjacent has had an orchard on it for many years as well as the property to the south.

Fourth Point the request mentions they need to do this because they spent 1.25 million and can not build enough houses to make it profitable. Which sounds pretty ridicules I assume they can do math and figure all their costs before they purchased the property. They are a development company, and their purpose is to make money. We do not want developers coming and adding at minimum four houses. If this was rezoned to R1 they could potentially subdivide up to 14 lots. Developers are going to do whatever makes the most money, I doubt they will only build four houses. We do not mind an individual purchasing and building their own house, but developers cannot be totally trusted to do what they say.

Thanks,

Jonathan Peterson

231-357-2707

Jpeterson93@gmail.com

4 Grosbeaks, LLC
644 Shield O Rd
Snowmass, CO 81654-9104

PHONE 970-923-2821

Stewart L. Holmes, Member-manager
William S. Holmes, Member
Josephine B. Holmes, Member
James C. Holmes, Member

September 7, 2022

Leelanau Township Planning Commission
119 E. Nagonaba St
Northport, Michigan

Via email only
zoning@leelanautownshipmi.gov

Re: Property No. 45-008-232-014-00,
Application for rezoning
submitted by Chris Amann

To the members of the Planning Commission:

I am one of the four owners of 9615 E. Seth Rd, which is titled in the name of 4 Grosbeaks, LLC. The other owners are my three siblings. My sister and I are Iowa residents and my brothers reside in Colorado. Our cottage has approximately 700 square feet of living space and it was built as and remains a summer cottage only. My siblings and I take turns spending blocks of the summer at our cottage in your community. Our cottage is titled in the name of a limited liability company only for ease in assuring that there is one sibling responsible for timely paying taxes and insurance and arranging necessary maintenance and repairs. The LLC operating agreement prohibits any rental of this cottage (just to be clear that this is a family cottage and not a short-term rental property).

I am writing to provide some information to help you decide the application for rezoning submitted by Chris Amann for Property No. 45-008-232-014-00. We are the first cottage north of the subject property. The blue roof of our cottage is visible between the words "Preliminary" and "Sketch" on the "Preliminary Division Sketch" submitted with the application. We are at a lower elevation than the McCarthy meadow adjoining to our east. The McCarthy meadow is at a lower elevation than the subject property adjoining it to the south. We have always referred to the subject property as "High Meadow." We are the property through which a substantial portion of the runoff from High Meadow would flow into Lake Michigan if High Meadow turns into a high concentration of buildable lots.

Our cottage is approximately 300 feet vertical from the lake, and the edge of our yard is between 300 and 400 feet horizontal from

Leelanau Township Planning Commission

Re: Property No. 45-008-232-014-00
Application for Rezoning
submitted by Chris Amann

September 7, 2022

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the high-water edge of the lake. This cottage was built on a piece of ground that has a view to the northwest of the lake and the Fox Islands, and it has a view because it is situated next to a bluff -a highly eroded sand escarpment. The leading edge of this escarpment- the area where the greatest volume of soil has eroded- is next to the low elevation point on our land towards which the bowl of the McCarthy meadow is tilted. The bowl on the McCarthy property would receive a substantial portion of the runoff caused by any development on High Meadow. I am attaching a photo I took of this low elevation area on our land during a hard but brief rainstorm on August 28, 2018. As you can see, the run-off is pooling on our lawn but not going over the edge of the bluff. It is possible that in more intense rain events, the runoff flows over the bluff edge. It is also possible that the runoff simply soaks down through the very sandy soil on our property to a less permeable stratum and migrates out the edge of the cliff into the lake. Suffice it to say that gravity would direct a substantial portion of runoff created by any intense development on High Meadow to the most eroded area on our land.

Based on the lay of the land, it looks like half of High Meadow would create runoff to the McCarthy property to the north, the half that lies northwest of a line that crosses diagonally from the northeast corner of the subject property to southwest corner of High Meadow on the property.

My great-aunt and her two companions kept a logbook of their summers at the cottage. The first entry covering their third, fourth and fifth days in the cottage, right after the construction was completed in 1952, reads:

On Sunday July 20th we drove to Lake Leelanau to report a leak in the roof to Mr. Couturier, got caught in a heavy storm and almost stuck in the sand on the orchard road. Monday morning we had a frightening black fog and another heavy storm. It rained some during the day, and hard most of the night. Tuesday morning we found that our blow-out had turned into a small Grand Canyon: it was washed clean of brush and vegetation and a good many tons of earth had gone into the water which was muddy far, far out into the lake.

Leelanau Township Planning Commission

Re: Property No. 45-008-232-014-00
Application for Rezoning
submitted by Chris Amann

September 7, 2022
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I share this log entry with you to make it clear that we are aware that we acquired a highly erodible cottage property and that we are fighting a losing battle to maintain our property against erosion. We are doing the best we can to fight the erosion. We maintain a buffer against the edge of the blow out and we have no impermeable surfaces beyond the footprint of the cottage and the garage.

We already have erosion problems that will disrupt our enjoyment of our property in the foreseeable future. The magnitude of this erosion -the large area and extreme slope of the erosion- makes it difficult for us to slow down the erosion. It stands to reason that the more buildable lots on the subject property that you permit, the more runoff will be created to flow downhill across our property, thereby accelerating the rate of erosion to our property. For this reason, we respectfully request that you deny the zoning application before you.

If you have any questions about the information I have provided, my email address is jamesc@holmesatty.com and my phone number is 319-651-6363. You are welcome to view our property.

Yours very truly,

4 GROSBEAKS, LLC

By /s/ James C. Holmes, Member

FW: 2018 Photo

James Holmes <jamesc@holmesatty.com>

Thu 9/8/2022 11:36 AM

To: Steve Patmore <zoning@leelanautownshipmi.gov>

Cc: kenarnt@gmail.com <kenarnt@gmail.com>; McCarthy, Patrick M.D. <Patrick.McCarthy@nm.org>; Cliff Hale <cliffshale@comcast.net>; Jonathen Peterson <jpeterson93@gmail.com>; Don Goheski <djgoheski@yahoo.com>

Please see the photo that accompanies my letter.

From: James Holmes <james.c.holmes222@gmail.com>

Sent: Wednesday, September 7, 2022 8:04 PM

To: James Holmes <jamesc@holmesatty.com>

Subject: 2018 Photo



Jim Holmes

008 232 014 00

CLIFFORD HALE <cliffshale@comcast.net>

Thu 9/8/2022 3:00 PM

To: Steve Patmore <zoning@leelanautownshipmi.gov>

Mr. Patmore, I'm Cliff Hale, and we live at 10005, the terminus of Old Farm Road. My family is in support of the issues specified by our neighbors in their letters pertaining to the proposed rezoning of parcel 008 232 014 00. As we are not adjacent property owners, and our concerns have already been brought to your attention, I'll say simply say we agree with these concerns.

Seth Rd. 27.2 acre parcel

don goheski <djgoheski@yahoo.com>

Thu 9/8/2022 4:10 PM

To: Steve Patmore <zoning@leelanautownshipmi.gov>

September 8th, 2022

Leelanau Township
Zoning Administrator
119 E. Nagonaba St.
P.O. Box 338
Northport, MI 49670

Steve Patmore,

I just learned of this rezoning meeting yesterday. So, I'm one of the six residents residing on the north branch of Seth Road and I'm making this late contact, due to the fact, none of us have been notified of this RE -zoning Proposal taking place today September 8, 2022.

My main concern is, I believe very strongly the zoning proposal should not be changed.

Not having been at the first meeting, I am not fully up-to-date on what transpired, but am aware of a few circumstances that I believe should be addressed. (maybe they have been) I have not spoken to anyone in the area that is in agreement on making this change from agriculture to residential zoning. We hired or voted you people in office to represent us, who are living and paying taxes in the township to protect our interests--not the interests of an outsider who is thinking how to make 10 times his investment. Most of the property in this area is agricultural and the Leelanau Conservancy purchased the Garthe farm to keep it that way.

Now we have an individual who knew that the agricultural zoning was in place when he purchased the property and wants to change that for his own personal gain. He has not spoken to anyone in the neighborhood concerning this matter about his intentions or plans. (interesting)

He knew what he was buying when he bought it and the property should be kept in the agricultural zone that it presently is in. He can still build two or three houses under the present zoning, but no, he wants to change the zoning now to triple or quadruple his money. And he will accomplish this by having it rezoned to R1.

If I heard correctly, he did not stipulate that he only wanted to build four homes in his proposal and that's his only intention. No- instead he stated I'm thinking of four homes but I'd like to rezone to residential. So possibly, in the future, build 10 to 14 homes where he can recoup 10 or 20 times his investment. The Township Board knows if this is changed he can easily do this. So I'm speaking for, I'm sure, the six residents residing on the north-Seth road and all the other property owners whom I've spoken with, that have adjoining properties, agree. We're hoping the Board represents the present solidarity and tranquility of this community and keeps this proposal the way it is and we're counting on you to do just that.

Another problem that should be addressed is the road. With the twelve residents using it presently, it's barely being maintained. To double the traffic, plus all the additional use from utility, UPS, and Federal trucks - this has to be addressed also and clarified.

Respectfully,

Don and Jean Goheski

-
-
-
-



To: Leelanau Township Planning Commission

From: Gene and Kathy Garthe
9691 E Seth Rd
Northport, MI 49670
231-386-7905

Topic: Rezoning Request – Seth Road

Date of Leelanau Township Planning Commission meeting: 9/8/2022 at 7PM

Comments:

We have reviewed the rezoning request submitted by Christopher Groebbel (agent) on behalf of Chris Amann (property owner) and find the following errors:

Under item #2, Mr. Groebbel states that the parcel “does not possess significant agricultural value”. In actual fact, the same land that is suitable for housing (on a flatter surface and away from the bluff) is of prime soil type and situated as such to be excellent fruit and cropland, most clearly suitable for farming. This is evidenced by the orchard to the south of this parcel and the fact that Gene successfully grew corn on that land before

Under item #4, it is to be noted that there is cherry orchard to the south and the east, so stating that this residential development “is consistent with existing land use” is only partly true and ignores the agricultural use of that land adjacent to the south and east.

Under item #6, stating that the parcel “will be adequately serviced” by a county road network is an error. The county road ends about ¼ of a mile or more from the parcel. The parcel is serviced by an easement that crosses Garthe farmland that is in active production and already has at least 9 residences using that easement.

Re Parcel 008-232-014-00 9-8-2022 meeting

McCarthy, Patrick <Patrick.McCarthy@nm.org>

Wed 9/7/2022 11:48 PM

To: Steve Patmore <zoning@leelanautownshipmi.gov>

Cc: McCarthy, Patrick <Patrick.McCarthy@nm.org>

To the zoning board;

I am writing regarding the "application for rezoning amendment" for the above named parcel. Unfortunately I won't be able to attend the meeting in person or virtually because I will be on a flight. I note that the proposal is focused on approximately 10 acres. This is based on the provided information of a 27.92 acre parcel including approximately 18 acres that are "non-developable and inaccessible".

I'm writing to: 1) correct several misstatements in the application dated 7-14-22 2) suggest that R-1 is inconsistent with the existing community and 3) the 2010 Master Plan would indicate that 2 or 3 lots would be more consistent with the community if the property were zoned RC.

Under Point 1: It is stated that the Planning Commission should first consider whether the proposed use cannot be accommodated by amending the zoning ordinance text or as a special condition land use (I paraphrased). One justification for rezoning as Residential -1 (R-1) is that "existing land use to the north and south of the subject parcel are residential". For over 50 years my family has owned the property directly north (008-232-016-00) and for almost all that time it has been a cherry orchard. It is currently fallow as I consider future use. I also own the existing working orchard immediately south and east, and the property immediately east across Seth road. All 3 of these pieces are agricultural land.

Under Point 2: Re the property has little agricultural value because the soil is "unsuitable" and there are steep slopes east and west. The east slope of the property is functionally similar to my adjacent property and the soil types one would expect would be similar to the productive orchard along the SE border. Both have been active tart cherry orchards for decades.

Under Point 3: Consistency with the Master Plan. If this parcel is zoned R-1, not Residential Conservation (RC) as the 2010 Master Plan Update intended, then building sites could be placed every two acres. In that case, on the 10 acres, the zoning board should consider if 5 **or more** parcels might be created by including a portion of the "non-developable" land on some parcels. R-1 was not the master plan intent of "low density residential development ... of rural lands that are not suited to agriculture..."

Under Point 4: Re compatibility of the existing land use pattern. The "adjacent" parcels in the table are more consistent with the master plan intent of low density residential development and 4/7 are zoned RC. It is very notable that my property is immediately contiguous on 3 sides (Lake Michigan is on the 4th), but is not mentioned anywhere in this application.

Under Point 10: are there other local remedies available. It's concerning that zoning other than R-1 is considered inconsistent with "the Applicants goals" and "required" development goals relative to the parcel market value. These statements appear to indicate that R-1 zoning is being driven to maximize sale of the lots. The potential to create many homes on the 10 acre parcel is not compatible with the community and Master Plan.

Note I am reluctant to send this letter and I make it a point not to interfere with my neighbors plans. But this request, as written, seems to have the potential to permanently impair an area that many of us hold close. I hope that a different solution can be found for our new neighbor consistent with the wishes of those families who have spent so many decades there.

Sincerely yours,
Patrick McCarthy

Patrick M. McCarthy, MD
Executive Director, Bluhm Cardiovascular Institute
Vice President, Northwestern Medical Group
Chief, Division of Cardiac Surgery

Heller-Sacks Professor of Surgery
Northwestern Medicine

676 North Saint Clair Street
Arkes Family Pavilion, Suite 730
Chicago, Illinois 60611
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nm.org

If you want to learn more about the Bluhm Cardiovascular Institute,
please visit our website at heart.nm.org



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Seth Road rezoning application

Marsha Buehler <marshabuehler@gmail.com>

Wed 11/16/2022 8:49 AM

To: Jessica Alpers <clerk@leelanautownshipmi.gov>

Cc: Richard Cross <supervisor@leelanautownshipmi.gov>; Denise Dunn

<treasurer@leelanautownshipmi.gov>; Georgie Murray <trusteegeorgie@leelanautownshipmi.gov>; Gina

Harder <trusteegina@leelanautownshipmi.gov>; Steve Patmore <zoning@leelanautownshipmi.gov>

 2 attachments (95 KB)

Seth Road rezoning analysis.docx; Seth Road rezoning analysis.pdf;

Good morning, Jessica.

I have attached my analysis of Leelanau Township Zoning Ordinance relative to the rezoning request of the Seth Road parcel reviewed by the LTPC last Thursday.

Since it will eventually be a matter before the Leelanau Township Board I have included them, as well as Steve Patmore, in this email. I don't have the email addresses for all of the LTPC members, and would appreciate it if you could forward it to them.

Thank you,

Marsha Buehler 231-386-9139

I listened on Zoom to the November 10 LTPC discussion about the Seth Road conditional rezoning application. It seems that there is a general misunderstanding about the requirement for dedicated open space under Article 13 Residential Open Space Developments. Article 13 It seems that all involved thought that Article 13 requires that the open space be a common area, which would preclude the larger-lot "farmette" option desired by the applicant. That is not the case. Perhaps a little background information will help to clarify. I was involved in the original discussion and adoption of Article 13.

LTZO Article 13, Open Space Residential Developments, section 13.5.A .5. allows dedicated open space to be owned by individual owners within the development. When this article was written this option was included specifically so that large lots that included environmentally sensitive areas or productive farmland could be owned privately and did not require common ownership and access. There is no requirement In Article 13 that the dedicated open space be "common area" with access to all (though that is an option) within the open space residential development; just that the dedicated open space not be built upon.

Section A.5 was added intentionally when Article 13 was adopted, as most parcels over 10 acres are zoned Agricultural. It was a mechanism by which agricultural landowners could develop/split/sell unproductive areas into residential parcels while choosing to retain private ownership of the residentially restricted land for farming, hunting, or conservation purposes.

Section 13.4.7 shows this intention with its language “and land suitable for farming”.

The understanding of this option may or may not have affected the application or decision by the Planning Commission, but it should be part of the consideration in such applications.

Three additional points that should be noted that are pertinent to the Seth Road parcel

1. R1 zoning, (including conditional R1) at 5.7.A does not permit agricultural uses (such as the desired “farmettes”)
2. RC zoning at 5.7.A footnote 15 does permit agricultural uses
3. RC zoning at 3.5.A footnote 11 states “lot sizes may be reduced if development conforms to Article 13”.

An analysis of the pertinent sections of the LTZO direct that the appropriate course of action that would legally accomplish the owner’s stated objectives would be rezoning to Residential Conservation (RC) and application for an Article 13 Residential Open Space development. Article 21 Conditional Zoning to R1 does not do so; it creates violations for agricultural “farmette” uses.

Thank you for your attention.
Marsha Buehler 11.16.22

MINUTES
LEELANAU TOWNSHIP PLANNING COMMISSION
REGULAR MEETING

Thursday, August 25, 2022

7:00 p.m.

Leelanau Township Hall

119 E. Nagonaba St., Northport, MI 49670

With public participation available via Zoom Remote Electronic Access

Zoom Meeting ID: 881 0982 5018 Passcode: 496700

1. PLANNING COMMISSION CALL TO ORDER, ROLL CALL, NOTATION OF QUORUM:

This meeting was conducted at the Leelanau Township Hall, 119 E. Nagonaba Street, Northport, MI 49670, with public participation available via Zoom remote electronic access.

The Meeting was called to order by Chair Kalchik at 7:00 p.m.

He asked each member to introduce themselves.

Members Present: **Steve Kalchik, Phyllis Rebori, Brian Mitchell, Tom Weber, Brigid Hart, and Gina Harder.**

Absent: **Kristi Fischer**, who was appointed to fill the vacant position just recently.

Quorum Established

Staff: Zoning Administrator Steve Patmore (ZA)

Public and Officials: 4 at Township Hall

Approximately 30 others joined via Zoom Electronic Remote Access

2. APPROVAL OF AGENDA: Chair Kalchik asked if there were any additions or changes to the draft Agenda.

Motion by Mitchell to approve the draft Agenda as presented.

Seconded by: Harder

Discussion: None.

Roll Call Vote: All Ayes

Motion Carried

3. DECLARATION OF CONFLICT(S) OF INTEREST:

Chair Kalchik asked Commissioner's if they had any conflict of interest on any item on this agenda.

- Chairman Steve Kalchik disclosed that the property on Old Farm Road that is the subject to the rezoning request is immediately adjacent to a farm that he leases. Does not believe that this is a conflict, but he wanted to disclose it.

4. ANNOUNCEMENTS AND CORRESPONDENCE:

Leelanau Township Planning Commission Approved Minutes
August 25, 2022 Regular Meeting

Chair Kalchik asked Zoning Administrator Patmore if there were any Announcements or Correspondence. Patmore noted the following correspondence:

- Letter from Greg Travis to the PC regarding Home Business Amendments to the zoning ordinance.
- Email from Phil Hallstedt dated August 16th with an attachment of a copy of the Cleveland Township zoning amendment on agricultural tourism that includes language on farm stay campsites.
- Letter from Allen Dalzell regarding the Leelanau Wine Cellars request.
- Email from Mark Krueger with suggestions on the Master Plan Chapter 5 – Coastal Resiliency

5. **PUBLIC COMMENT:**

Chair Kalchik reminded the public that public comments at this time would be limited to three minutes. He noted that there would be time during the Public Hearing to comment on the proposed rezoning application request.

He then opened the floor to public comment:

- Al Dalzell – has studied the Leelanau Wine Cellars request and the Zoning Administrators Report. The ZA is exactly correct as the current zoning stands. But in this case he thinks that an allowance of some sort needs to be made. There are only four industrial zones in the township and this is really out of order. He is sure it was because of the use at the time the zoning was enacted and should be grandfathered in. This property should not be industrial as it surrounded by single family homes and nearby commercial resort. With the storage building it could be commercial, but because it is adjacent to vineyards, maybe it should be agricultural. He would like to comment further during the discussion of this item.
- Phil Hallstedt – He and his wife own Hallstedt Homestead Cherries. In fall 2020 they began discussions with the planning commission to create a text amendment to enable farm stays on active working farms to enable working farms to diversify their farming by hosting up to four campsites. Four permanent campsites are not a campground per EGLE and ~~it was their initial request was~~ reduced to meet state regulatory requirements and speed up the ordinance update. During this time, the Cleveland Township (Leelanau County) planning commission, led by their chairman, was doing the same thing. He spoke with the chairman and their PC was looking for low impact activities to support small family farms which are struggling with seasonal labor, harvest challenges, and low prices. ~~He~~ **The Chairman** stated that they were looking to avoid wedding venues and vineyards which can be disruptive to neighbors in an agricultural district. Farm stays are low impact and promote a quiet rural setting according to the chairman. Cleveland residents brought forward a text amendment to allow Farm Stays, it was passed in May and they approved a special use permit for the first farm to begin operation this summer. The goals of the ordinance are in the materials distributed.

6. DISCUSSION/ACTION ITEMS:

A. SITE PLAN REVIEW – PROPOSED RESIDENCE IN THE INDUSTRIAL ZONING DISTRICT – 12693 E. TATCH ROAD, OMENA – LEELANAU WINE CELLARS:

ZA Patmore introduced the application.

1. This Site Plan Review is in front of the PC because it is a new use in the Industrial Zoning District.
2. He submitted a Zoning Administrator's Report
3. He reviewed the background contained in the report.
4. He reviewed the basic facts contained in the report.
5. He referenced the definitions and ordinance excerpts contained in his report.
6. He does not believe that a single-family residence should be considered an Accessory Use in the Industrial District for the reasons contained in the report.
7. He understands the need for employee housing, but he believes that there are other ways to accomplish the goal, including re-zoning and/or a text amendment.

The Applicant, Bob Jacobson, from Leelanau Wine Cellars stated that they believe that employee housing is accessory to his business, which is located on another parcel. The building was a residence years ago. They do not want to go through rezoning or a text amendment. They agree with the zoning report, but not the conclusion.

Attorney Ed Roy, representing Leelanau Wine Cellars, feels that the PC can approve the residence as an accessory use. They have employees that work on the property occasionally. Thinks sometimes you need to set-aside the zoning ordinance for a minute when things make sense.

Planning Commission Discussion:

- There is a demonstrated need for workforce housing.
- There was a **house residence** there in the past – they stored industrial and construction things there.
- How can we assure that it will be used as worker housing?
- The owner will not give any guarantees, but they have no plans on renting the house out as a short-term rental.
- Concerns about setting a precedence in the interpretation of the zoning.
- Would other properties in the township qualify for housing as an accessory use.
- The PC will be working on workforce housing in the future as part of the master plan.
- Owner has started demo work on the structure.

Public Comment:

- Al Dalzell – knows history of property. We don't need this much industrial land. A **Hhouse** would not harm anything. Need to be flexible and help them out. Needs to be restrictions.

Master Plan needs to ~~focus on providing~~ **discuss housing options.**

Should we consider language allowing this as a former-existing use?

This should be restricted as employee housing – how do we verify?

The Applicant may present options to address limiting to employees.

By consensus, this Site Plan Review was tabled until the next meeting, September 8, 2022.

B. PUBLIC HEARING – APPLICATION TO REZONE 45-008-232-014-00, E. SETH ROAD, FROM AGRICULTURAL TO RESIDENTIAL, SUBMITTED BY CHRIS AMANN:

Chair Kalchik opened the Public Hearing.

ZA Patmore gave an introduction of the application and request.

The Applicant's representative, Chris Grobbel, gave a presentation.

- Environmental consultant.
- He works for 15 agencies as a Planner and Zoning Administrator.
- A rezoning should fit with the Master Plan and surrounding area.
- 60% of this property (18 acres) is not accessible due to a more than 45 degree slope.
- Landowner has no intention of developing steep slope area
- Has met with EGLE – no jurisdiction on areas we are discussing tonight - there is a High Risk Erosion area.
- Given market value of property, would like to get 4 parcels – can only get 2 with ~~meets~~ **metes** and bounds.
- Open Space Residential in the ordinance would not get them there.
- He went through his analysis of the 9 Rezoning Standards contained in Article 10.
- Considering submitting conditions for rezoning.

Public Comment:

Chair Kalchik opened the floor to public comment

- Ken Arnt – lives south of the property. There is a 200 foot unbuildable area east of his parcel. The property could be used as agricultural. The current road serves 15 houses and has become an issue. 33' wide easement. Would prefer to see two residential lots.
- Bill Fales with wife Sue, own property south west of the subject property. Old Farm Road. Welcomes new neighbor but is opposed to rezoning. Mainly concerned with the road, and having too much traffic on the road.
- John Watkins, realtor, sold property and the intent was to split it. Trying to conserve as much as possible. Conservation easement. Owner wants to build a house and sell. One owner wants to buy two parcels and have a hobby farm. Keep some in an agricultural environment. Has had talks with the Road Commission.

Discussion on private road.

Patmore discussed that the County Road goes in a described distance, and they must approved

- Ken Arnt interrupted the discussion that the conservancy will not allow road

Patmore continued that the township has a private road ordinance that would be applied when additional lots are added.

- Jessica Hale – concerned about private road, and erosion and run-off at the bluff

Hearing no further public comment, Chair Kalchik closed the Public ~~Hearing~~ **Comment**.

Patmore discussed that EGLE would determine bluff setbacks. The entire property is listed on the EGLE website as High Risk Erosion.

Chris Grobbel will submit documents received from EGLE.

The township, during their review, could determine that a particular road is insufficient to handle additional traffic.

Since we are awaiting some information, Patmore recommends adjourning the Public Hearing and continuing the hearing at the next meeting.

Commissioner question for Mr. Arnt: who maintains the private road?

- No formal association, but they work with properties to the north.
- Tried to get turned into a county road.
- Issues with NRCS and Conservancy – they will not allow paving.
- Troubles with emergency access.
- They maintain the road themselves.

The PC would like the applicant to consider voluntary conditions.

The public was encouraged to submit comments to the planning commission in writing.

Motion by Mitchell to adjourn this Public Hearing on the application for rezoning to Thursday, September 8, 2022 at 7:00 p.m.

Seconded by: Hart

Discussion: None.

Voice Vote: All Ayes

Motion Carried

C. Update on Master Plan Project

Tabled due to the time

D. Meeting Minutes:

Tabled due to the time

7. Reports:

A. Zoning Administrator – Steve Patmore:

- Patmore gave an update on permits, short term rentals, and compliance.

B. Township Board – Gina Harder:

- Gave an update of township board activities

7. Commissioner & Staff Comments:

- Tom Weber stated that he could not attend the September 8, 2022 PC meeting and asked to be excused.

8. Next Meeting : September 8, 2022:

Continue Site Plan Review and Public Hearing

10. Adjournment:

Motion by Mitchell to adjourn the meeting

Seconded by: Rebori

Discussion: None.

Roll Call Vote: All Ayes

Motion Carried

Chair Kalchik adjourned the meeting.

Minutes recorded by Steve Patmore

Minutes approved as-amended by the Planning Commission on September 22, 2022

**EXCERPT OF DRAFT MINUTES
LEELANAU TOWNSHIP PLANNING COMMISSION
REGULAR MEETING**

Thursday, September 8, 2022

7:00 p.m.

Leelanau Township Hall

119 E. Nagonaba St., Northport, MI 49670

With public participation available via Zoom Remote Electronic Access

Zoom Meeting ID: 881 0982 5018 Passcode: 496700

1. PLANNING COMMISSION CALL TO ORDER, ROLL CALL, NOTATION OF QUORUM:

This meeting was conducted at the Leelanau Township Hall, 119 E. Nagonaba Street, Northport, MI 49670, with public participation available via Zoom remote electronic access.

The Meeting was called to order by Chair Kalchik at 7:00 p.m.

Chair Kalchik welcomed new commissioner Kristi Fischer, and asked her to introduce herself to the commission and the public.

He asked each member to introduce themselves.

Members Present: **Steve Kalchik, Phyllis Rebori, Brian Mitchell (arrived at 7:05), Brigid Hart, Gina Harder, & Kristi Fischer.**

Absent: **Tom Weber** (excused per his request last meeting)

Quorum Established

Also present:

Staff: Zoning Administrator Steve Patmore (ZA)

Public and Officials: 6 at Township Hall

Approximately 7 others joined via Zoom Electronic Remote Access

2. APPROVAL OF AGENDA: Chair Kalchik asked if there were any additions or changes to the draft Agenda.

Motion by Hart to approve the draft Agenda as presented.

Seconded by: Rebori

Discussion: None.

Voice Vote: All Ayes – 2 absent

Motion Carried

3. DECLARATION OF CONFLICT(S) OF INTEREST:

Chair Kalchik asked Commissioner's if they had any conflict of interest on any item on this agenda.

- Chairman Steve Kalchik again disclosed that the property on Old Farm Road that is the subject of the rezoning request is immediately adjacent to a farm that he farms. If anyone believes that this is a conflict, he may step down.
- No other conflicts stated.

4. ANNOUNCEMENTS AND CORRESPONDENCE:

Chair Kalchik asked Zoning Administrator Patmore if there were any Announcements or Correspondence. Patmore noted that the only written correspondence was related to the rezoning request, and would be noted during the Public Hearing.

5. PUBLIC COMMENT:

Chair Kalchik reminded the public that public comments at this time would be limited to three minutes. He noted that there would be time during the Public Hearing to comment on the proposed rezoning application request.

He then opened the floor to public comment:

- Allan Dalzell – he did not get an agenda. Was it posted on the website?
- Trustee Harder apologized for not posting the agenda on the website. It was posted at the township hall.
- No other public comment at this time.

6. DISCUSSION/ACTION ITEMS:**A. SITE PLAN REVIEW – PROPOSED RESIDENCE IN THE INDUSTRIAL ZONING DISTRICT – 12693 E. TATCH ROAD, OMENA – LEELANAU WINE CELLARS:****B. CONTINUATION OF PUBLIC HEARING – APPLICATION TO REZONE 45-008-232-014-00, E. SETH ROAD, FROM AGRICULTURAL TO RESIDENTIAL, SUBMITTED BY CHRIS AMANN:**

Chair Kalchik re-opened the Public Hearing from August 25, 2022, and asked ZA Patmore for an introduction.

ZA Patmore gave the following introduction and background:

- At the last meeting, there was a lot of discussion on this application, and the Applicant was going to consider these comments, and possibly consider offering conditions to the township.
- For a rezoning, the PC has to consider making a recommendation decision on the Application as it is presented. The PC cannot impose conditions without these conditions being offered voluntarily by the Applicant. Article 21 of the zoning ordinance covers conditional rezonings.
- He mentioned that it is his opinion that the Applicant could develop up to four lots under Article 13, Open Space Residential Development (OSRD) under Agricultural District zoning based upon the multipliers contained in Article 13. The PC approved a project a few years ago as an OSRD on agricultural zoned property near Peterson Park.

The Applicant's representative, Chris Grobbel, made the following comments:

- He is here tonight with Realtor John Watkins.
- When they started on this project, they looked at four options. The property is a little less than 30 acres, with 60% of it undevelopable due to steep slopes.
- The land owner does not want to develop the steep slopes, except for a walking access.
- They are trying to help the new land owner take a property and make it workable.

- Regarding the farmability of the parcel; 60% of the 27 acres is not farmable, making the property not economical for farming. Yes, some trees can be planted, but not economically.
- Residential use is permitted in the Agricultural District.
- They are asking for a rezoning to allow up to four lots on nearly 30 acres.
- The discussion was sidetracked last time by discussion on county road standards, and how this property owner was going to be responsible for upgrading the entire road network going in and out. That is not the case, as the private road ordinance is only triggered when a driveway serves more than 4 residences on what was once a driveway. The only thing relevant to the township is the access into this parcel, and if it is three lots, it would be just a driveway, and four lots would have to meet the private road ordinance.
- At no time do the county road standards apply. The county will handle their issues, and it is outside the PC and Leelanau Township to do the county road commission analysis.
- They looked at several options:
 1. Metes and bounds split – can only get two lots under Ag zoning.
 2. Special Lot Split Option in Ag District – can get down to 2 acres per lot - but there is a better option.
 3. The rezoning option is a better fit. He was guided by the Zoning Administrator to come to the PC for a rezoning. They are open to voluntary conditions. They did not bring conditions because they thought that this was simpler. The development pattern in the area is very large lots. They are proposing two, ten acre lots, one, three acre lot, and one lot of over five acres. These would be similar to the development pattern to the south. This is a low density proposal.
 4. They looked at the Open Space Residential Development (OSRD) option, could get 52 units if they applied this. They are asking for four lots. The OSRD requires a land owner to go through a mini PUD process that involves a whole bunch of stuff that isn't necessary. They are trying to come in with a reasonable proposal that is approvable under township standards and is not a full blown OSRD or PUD approach.
- The property has a huge area that is undevelopable. He stated before that he met Robyn Schmidt (EGLE) on site and she decided where the Erosion Hazard Line, which is the zero measuring point for the High Risk Erosion Program, and she placed it down on the shoreline. That big slope up at the top is not the Erosion Hazard Line for the state program. So the state has no jurisdiction in this matter unless we propose something down on the shoreline.
- He saw the written public comment that mentioned that we should document the EGLE determination. He will get that.
- Regarding the conditions that he has discussed with the owner. He stated that he started working for the state, taught this stuff at MSU for many years, was at Northwest Michigan Land Use for many years, and was originator of the Citizen Planner Program, so he has to say a couple things about conditions; If conditions are applied to a rezoning, and rezoning is a serious matter, they have to be closely and directly related to the proposal; and , conditions imposed have to be reasonable and has to be proportional, according to courts.
- There are five things that could be voluntarily offered in the action proposed, or, if need be, amend the application to offer conditions. These are really the same thing.
 1. A conservation easement would be offered on the downslope area from the crest to the shoreline, with exception of a walkway. The easement could be held by the township, land trust, or third party.

2. Four lots or less could be developed.
3. Will comply with Private Road Ordinance – the shared driveway would comply with the Private Road Ordinance.
4. Will comply with relevant state and local ordinances.
5. Will attach documentation from EGLE about their lack of jurisdiction.

John Watkins had a couple comments to add:

- Regarding the written comments, their proposal has nothing to do with Seth Road.
- They will meet the road standards within their development.
- The owner will be building a home on one of the ten acre lots.

Chris Grobbel added that the plan for marketing the two smaller lots is for small scale hobby farms.

Questions from the Planning Commission to the Applicant:

- Is this a new road or adding on to the existing road?
Chris Grobbel answered that they are only talking about the access to the subject site. Old Farm Road is not part of your jurisdiction, it's the county road commission, and they will tell us what we need to do with them. Unless we are doing an OSRD or PUD, the county road standards don't come into play. We are talking about a private driveway vs. a township private road.
- Where is the line between Seth Road and Old Farm Road?
Chris Grobbel answered that it really doesn't matter what the name is. If you look at different sources, it tells you different things. The address for this property is Seth Road.
John Watkins added that the road commission believes that Seth Road goes off to the North. Then if you go further west it dead-ends at Old Farm Road.
Chris Grobbel wanted it to be clear that the tax rolls say this property is on Seth Road.
- The PC discussed the orientation of the existing roads in that area. Audience members added to the discussion.
- Is Old Farm Road a county road? You stated earlier that the county had jurisdiction.
Chris Grobbel stated that county roads are under the jurisdiction of the county road commission. The only relevant question to this application is whether the driveway into the property is a driveway or private road under the private road ordinance.
The PC does not have the authority under a rezoning to require as a condition one landowner to upgrade an entire road for a whole neighborhood. It's not proportional. He added that he doesn't know how to say this more clearly.
- ZA Patmore added that the rezoning standards in the zoning ordinance allows the PC to look at roads during a rezoning discussion. We are not at that point yet in this review, but we will be going through the standards. In addition, there is a provision in the township private road ordinance that addresses grandfathered private roads. And Old Farm Road is a grandfathered private road. The ordinance has a section addressing adding houses and lots to a pre-existing road. This is addressed at the Land Use Permit stage. We may need a legal opinion on this.

Patmore stated that his goal for this meeting was to find out if there were any voluntary conditions being offered by the applicant or not. His review of the application depends on this.

Chris Grobbel stated that the Applicant wants this request reviewed on its own merit as submitted, and that the PC could review the application and approve the rezoning with the voluntary conditions, and he has offered five conditions.

ZA Patmore stated that he didn't think that the PC can add conditions to their approval of this application and that an approval with voluntary conditions would fall under Article 21 - Conditional Rezoning and would have to be submitted in writing.

Grobbel disagreed with this statement, but would submit a conditional rezoning application if the township was more comfortable with that. Five conditions were offered.

Chair Kalchik asked ZA Patmore to list any written public comments received on this application since the last meeting:

- Email from Donald & Jane Les dated 9/7/2022.
- Email letter from Kenneth Arnt dated 9/7/2022.
- Letter received by email dated 9/8/2022 from Sue & Bill Fales.
- Email from Jonathan Peterson dated 9/8/2022.
- Three page letter received via email from 4 Grosbeaks, LLC, dated 9/7/22 and signed by James Holmes, Member.
- Emailed photo from James Holmes dated 9/7/22.
- Email from Clifford Hale dated 9/8/22.
- Emailed letter from Don Goheski dated 9/8/22.
- Emailed letter from Gene and Kathy Garthe received on 9/8/22.
- Email from Patrick McCarthy dated 9/7/22.

Chair Kalchik opened the floor to Public Comment, and asked the public to limit their comments to three minutes:

- Ken Arntz: lives adjacent to the south of this property. Is EGLE not the jurisdiction that guides development here? Or it falls under county and township rules?
Chris Grobbel answered that the township rules would apply and that he wrote the ordinance for the township.
Ken Arntz: Is there greater than 45 degree slope?
There was interference from the audience.

Chair Kalchik warned the audience members that comments should be directed to the Chair, not other audience members.

Arntz stated that there should be significant bluff setbacks.

Grobbel stated that they have already looked at this and houses would be behind the township setbacks.

Arntz asked what the setbacks would be?

Chair Kalchik again warned against audience members going back and forth.

Arntz discussed bluff setbacks and his structures, and thanked the PC.

- Don Gohesky: no location given, stated that he is not sure everyone understands the road situation. Does the board understand? His main concern in the rezoning is the number of lots. On ag land can you build three homes?

Members of the audience interrupted – Chair Kalchik intervened.

Commissioner Mitchell responded:

- Could have four lots under ag zoning if you go through the OSRD.
- This project could have many more than four lots if it is rezoned and the applicant goes through the OSRD.
- There are several options available for development of this parcel.
- Every lot is unique.

Mr. Gohesky stated that his main concern is higher density. The application should indicate the number of lots. Concerned that, if approved, the owner could change his mind and develop more lots.

Mitchell stated that voluntary conditions could limit the number of lots, ask the ZA.

Patmore added that a conditional rezoning is enforceable, it's a contract.

Gohesky doesn't think conditions are enforceable. Owner could change his mind and put in 10 or 12.

Mitchell & Chair Kalchik both stated that whatever is decided by the PC is enforced.

Gohesky stated that the owner knew the property was ag when he bought it. Rezoning is a serious matter. Don bought his property knowing that there wouldn't be a subdivision next to them.

Brief PC general discussion on the land development process.

ZA Patmore noted to the PC that if a property was rezoned to R-1 without conditions, then anything that is allowed in the R-1 District could happen, including density. Conditions are binding. If the property's zoning were to be changed by the township after the Master Plan Update, that would supersede the existing zoning. Not sure if the conditions would still apply in that case.

- Jim Holmes, author of 4 Grosbeaks letter, address of Seth Rd. There is a mix-up between Seth Road and Old Farm Road Addresses. His property is at a lower elevation than the subject property, and they have significant erosion issues. If there is any development up there, erosion is bound to increase, and they have a small parcel. The subject parcel drains to the north through the McCarthy meadow and goes between their house and garage. They are losing the bluff with every rainstorm, and are fortunate that the subject parcel is fallow as is the McCarthy parcel. If this is developed, it is bound to increase the drainage across their property. His family has been here since 1952, they measure the cliff from a telephone pole every year, and it gets less and less. Any development on this property will directly affect

- their use of the property. The Applicant purchased the property as agricultural, lets keep it agricultural. If the PC makes this change in zoning, his days up here are limited. It's his getaway, he spends money here, it's his enjoyment. This erosion issue is very real, gravity is going to bring run-off through their property. Please go careful on this zoning question, it's going to affect them.
- Gene and Kathy Garthe: wants to address a couple items of the application. 1) Section 2, where they talk about ag value, he operated this property 40 years ago and had corn growing on it. This is one of the best horticultural sites in Leelanau Township. 2) Section 4, Adjacent properties. The property immediately to the south is an operating farm, and the property immediately to the east is an operating farm. The property to the north is vacant, but used to be a cherry orchard. The property adjacent to that is a cherry farm. 3) Section 6, Road. Seth Road ends where Old Farm Road begins. Old Farm Road is a 33' easement across their property, then turns south to other properties. He wants to remind the PC that the Garthe land is under a conservation easement with the federal government. If you were to change the roads' dimensions and bring up to county specs., it would require an ok from the federal government, and the Garthe's would have to donate the land. The wish the Pc the best.
 - Patricia Peterson: they own the rest of the easement where the Garthe easement ends. Road comes a few feet from an historic pump house. Same 30' easement. There are real issues for the Peterson property regarding the easement. They are not in favor of changing from Agricultural zoning to the other designation. They (Applicant) can build now the way it is. They (Peterson's) have all done it with the same agricultural zoning and they believe it should stay the same. Thank-you
 - Bill Fales: has a request for clarification. He agrees and echo's his neighbors comments. Understood that Old Farm Road is private and an easement, but heard Dr. Grobbel say that Old Farm Road is under the authority of the county road commission. His big concern is the road condition. Appreciates the offer of the Applicant to restrict to four houses, but that is still too much traffic for this primitive road. Heard in the previous meeting that the Fire Chief has some say from a township interest to get emergency vehicles to the property. Thank-you and appreciates the work of the PC.
 - John Watkins: Wants to talk about the road issue. The road now is in full compliance. In theory, they could already divide into four lots in the agricultural area. They are not adding any more than is already on the road. That road already meets the standards that it needs to meet. The road issue that everyone is talking about has nothing to do with the issue tonight. By right, this property could be divided into four lots, and those four lots could use the road that already meets the fire chief's standards. So anything that's been talked about on the road is not part of this discussion because it's all set as-is. This confuses matters and shouldn't be on the table at all. Wouldn't it be nice to have four more people helping to pay for the road and upkeep to the private road. Thank-you.
 - Ken Arntz: He has talked to the fire department and they have big issues with the road. They said that if his house catches fire he may as well watch it burn down because they won't make it down that road. He disagrees with the interpretation that this road meets standards. PC needs to talk with fire chief. Thinks road needs to be addressed, As the Garthe's said, the road is subject to the NRCS, a federal program, and the Conservancy. It is an easement. He has been working for 10 years trying to get this turned over to a county road. As he stated in his letter, the county requires that the road be paved, however, the NCRS and conservancy can't have an impermeable surface. There is a big impasse there. The road is a huge issue. All

Patmore also noted that, at the last meeting, there was some concern about the lower setbacks of the R-1 Zoning District compared to the Agricultural District, given that there is active agricultural production on the adjacent property. Maybe the Applicant could volunteer as a condition that the Agricultural setbacks would apply to adjacent properties. The Agricultural setbacks are 40 feet front, side, and rear. The R-1 setbacks are 30' front, 10' side, and 40' rear.

Mr. Arntz in the audience noted that the Applicant stated that EGLE has no jurisdiction over the bluff setbacks and asked for clarification. Patmore noted the language in Article 15.

Commissioner Mitchell noted that maybe the Applicant will provide a letter from EGLE that they have no jurisdiction, and maybe Article 15 will then kick in.

Commissioner Mitchell asked the ZA how many parcels are accessed by the private road. Patmore did not know the answer. He heard the number 15 thrown out.

Mr. Arntz in the audience stated that there are currently 6 houses to the north and six houses to the south, and 5 vacant lots, so the total is 17.

Commissioner Mitchell noted that the Applicant is talking about the access road within the property, not Seth Road or Old farm Road.

Chair Kalchik recognized Chris Grobbel: He stated that he said this before and is saying it again. EGLE establishes the measuring point for the (bluff) setback. For this parcel it is 50' for the 30 year setback and 85' for the 60 year setback which is the hypothetical erosion rate that his fellow grad students digitized in 1985. That is way down by the shoreline. They are hundreds and hundreds of feet away from that. Will get the letter from EGLE. That is where the township jurisdiction is. The township has a steep slope ordinance.

Commissioner Mitchell noted that either EGLE or the township will have jurisdiction.

ZA Patmore stated that he does not agree completely with Mr. Grobbel's statements, Article 15 is clear that the township standards do not apply to a parcel with HREA designation.

Grobbel stated that he does this work every day.

At 8:26 p.m. Chair Kalchik declared a five-minute recess of this meeting.

At 8:28 p.m. Chair Kalchik re-opened the meeting.

Commissioner Harder and Fischer both stated that they would like to review and study the public comments and visit the site again.

Commissioners were asked to review Article 13 – Open Space Residential Development; Article 15 – Environmental Standards, and Article 21 – Conditional Rezoning. It was also noted that the Standards for Rezonings are in Article 10.

Commissioner Mitchell thanked the Applicant and their representative for discussing possible conditions. They address some of the issues that were identified. It doesn't solve the road issue.

Motion by Mitchell to adjourn this Public Hearing and deliberations on this application for rezoning to Thursday, October 13, 2022 at 7:00 p.m.

Seconded by: Harder

Discussion: None.

Voice Vote: All Ayes, one absent

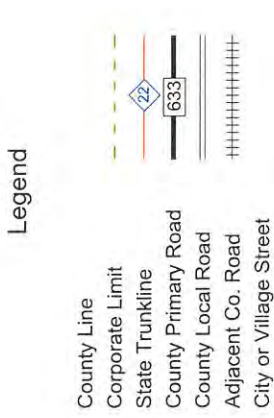
Motion Carried

Excerpt of Draft Minutes of Leelanau Township Planning Commission
Steve Patmore, Zoning Administrator

EXCERPT

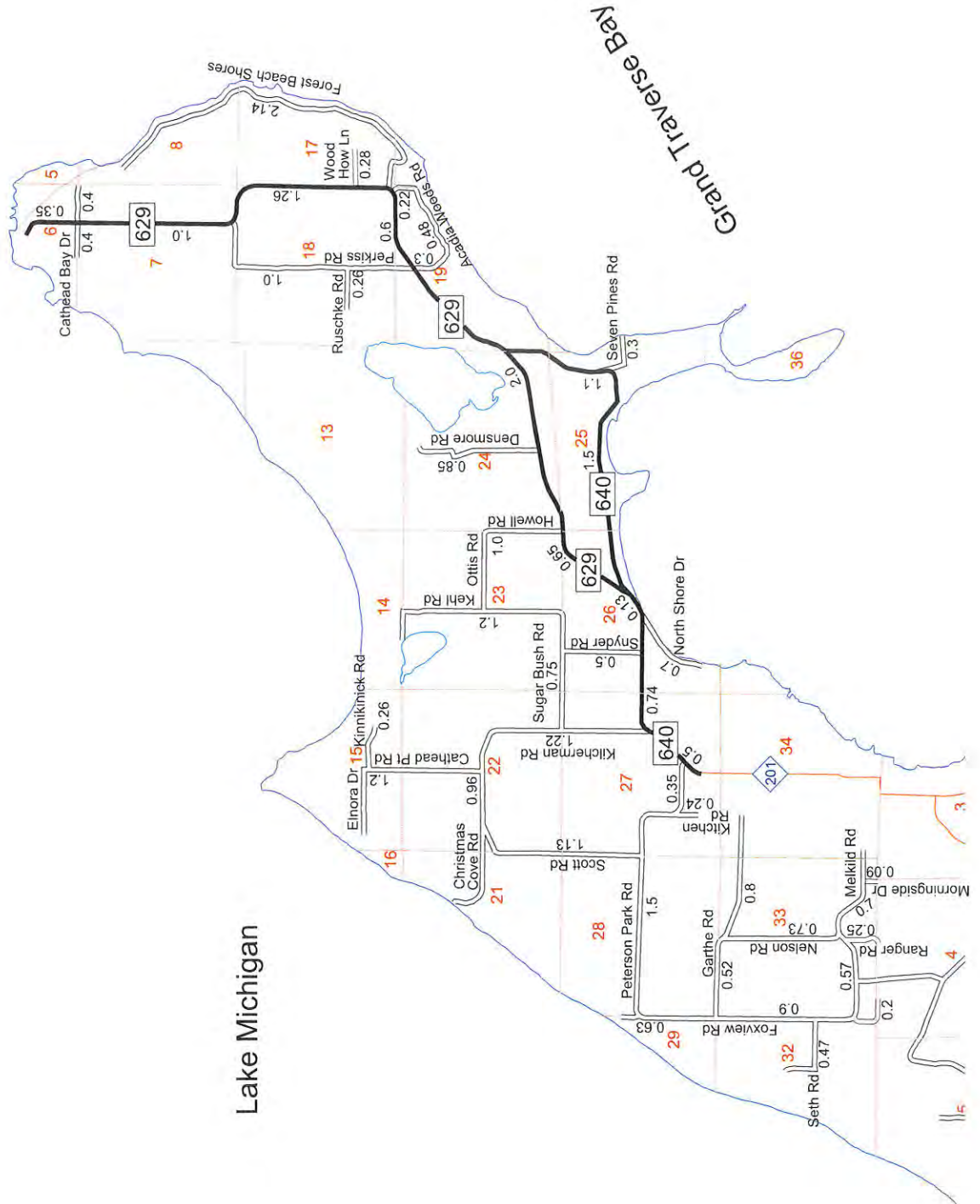
FROM:
 Leelanau COUNTY ROAD COMMISSION
 CERTIFICATION MAPS
 PRINTED NOV. 2022

Leelanau County Road Commission
 County 45



Primary Road System this sheet is 9.83 mi.

Local Road System this sheet is 23.50 mi.



Scale: 1-1/2" = 1 mile



Leelanau Township
 T32N, R10W; T32N, R11W

Sheet 8.1
 December 31, 2019

EXCERPT DRAFT MINUTES
LEELANAU TOWNSHIP PLANNING COMMISSION
REGULAR MEETING

Thursday, November 10, 2022

7:00 p.m.

Leelanau Township Hall

119 E. Nagonaba St., Northport, MI 49670

With public participation available via Zoom Remote Electronic Access

Zoom Meeting ID: 881 0982 5018 Passcode: 496700

1. PLANNING COMMISSION CALL TO ORDER, ROLL CALL, NOTATION OF QUORUM:

This meeting was conducted at the Leelanau Township Hall, 119 E. Nagonaba Street, Northport, MI 49670, with public participation available via Zoom remote electronic access.

The Meeting was called to order by Chair Kalchik at 7:00 p.m.

He asked each member to introduce themselves.

Members Present: **Brigid Hart, Brian Mitchell, Steve Kalchik, Gina Harder, Phyllis Rebori, Tom Weber.**

Absent: **Kristi Fischer (asked to be excused)**

Quorum Established

Also present:

Staff: Zoning Administrator Steve Patmore (ZA)

Public and Officials: 3 at Township Hall

Approximately 12 others joined via Zoom Electronic Remote Access

2. APPROVAL OF AGENDA: Chair Kalchik asked if there were any additions or changes to the draft Agenda.

Motion by Harder to approve the draft Agenda as presented.

Seconded by: Mitchell

Discussion: None.

Voice Vote: All Ayes, one absent

Motion Carried

3. DECLARATION OF CONFLICT(S) OF INTEREST:

Chair Kalchik asked Commissioner's if they had any conflict of interest on any item on this agenda.

Kalchik re-stated that he farms a property adjacent to the parcel being considered for rezoning. He doesn't feel that it's a conflict, but if the commission feels that it is, he will step out.

No other conflicts were stated.

4. **ANNOUNCEMENTS AND CORRESPONDENCE:**

Chair Kalchik asked Zoning Administrator Patmore if there were any Announcements or Correspondence. Patmore noted the following:

- There was no written correspondence for this meeting.
- The Referendum on the Zoning Amendment (Ordinance No. 1 of 2022) was held and the ordinance was upheld, meaning the zoning amendment will become effective when the election results are certified by the Election Commission/Board of Canvassers. Commissioner Hart said that she is on the County Board of Canvassers and they met today, but did not get the election certified. Probably will be next Monday.

5. **PUBLIC COMMENT:**

Chair Kalchik reminded the public that public comments at this time would be limited to three minutes. He then opened the floor to public comment. No public comments given.

He noted that there will be time allotted during the Public Hearing to comment on the proposed rezoning.

- Allen Dalzell: Leelanau Township, is glad to see everyone back and healthy again. Has no objection to the rezoning. It is one of the few parcels left on the bluff or on the shoreline. The question that comes up, as Gene Garthe brought up, is the road situation, and you need to be serious about how that is handled.
- Anne Harper, congratulations on the voters supporting the original ordinance. Think it is great news for the township. Regarding Master Plan, she went back to looking again at some of the watershed and coastal planning sections and discovered that Heather Smith, our Grand Traverse Waterkeeper, Baykeeper, sent a letter to the township on January 7, 2022 offering some suggestions. She mentions a number of pages where our consultant is not using the most up-to-date report. She would like to call the PC's attention to this letter because the website does not reflect the changes and she doesn't know if they were discussed. One of them involves Northport Creek, which is a hot topic in the Village, which is part of the township. She hopes that the whole commission has seen the January 7th letter and hopes that someone will figure out the changes, especially the basic report dates. She is disappointed that consultants don't have the latest reports in their draft. Just wants to make sure that things like Heather's great help with environmental issues get acted upon. Thank-you
- Barbara Weber, lives in the Village. Did not get to vote on the ordinance because she lives in the Village, but is happy it went through. The whole township wants to protect the environment, and hope it is placed well in the Master Plan. Is concerned about BLT stating that the ordinance is illegal, because it is not. She would like the commission to issue a statement supporting their work. People are still talking about the ordinance being illegal, but it is not. Also asking the commission to look into whether BLT is a legitimate organization. Thank-you.
- Ken Arnt: lives off of Old Farm Road. Supports the gentleman's idea that the road is a huge issue. Also questions is there a need for R-1?, or could this be divided in an agricultural setting. Big fear is that years down the road they would try to do more divisions. The watershed is a big issue, they only address that in the conditions. The access road is the big issue. They are going to double the houses on the road if this division goes through, and the road is very circumspect right now. Thank-you.

Hearing no further public comment, Chair Kalchik closed the floor to public comment.

6. DISCUSSION/ACTION ITEMS:

A. Continuation of the Public Hearing and Consideration of the Application to re-zone 45-008-232-014-00, East Seth Road, from Agricultural to R-1 Residential, with voluntary conditions – submitted by Chris Amann:

Chair Kalchik re-opened the Public Hearing adjourned on September 8, 2022, and asked ZA Patmore to introduce the subject.

ZA Patmore gave the following background:

- A rezoning is a Zoning Map Amendment to the Official Zoning Ordinance, and is covered in the Michigan Zoning Enabling Act and the Leelanau Township Zoning Ordinance.
- The Planning Commission (PC) reviews applications for Map and Text Amendments, conducts a Public Hearing, and makes a recommendation to the Township Board.
- By statute, the recommendation is reviewed by the County Planning Commission.
- The Township Board then considers the formal amendment to the zoning ordinance.
- The Michigan Statute provides for the voluntary offering of conditions for a rezoning by an applicant. These must be voluntary and must be submitted in writing.
- The Michigan Statute and Article 21 of the Leelanau Township Zoning Ordinance contain provisions for the review of Conditional Rezonings, which are in addition to the regular standards for rezonings contained in Article 10 of the zoning ordinance.
- Chris Amann submitted an application to rezone the subject property on Seth Road from Agricultural Zoning to R-1 Residential Zoning.
- The original application did not originally include any voluntary offer of conditions.
- A Public Hearing was commenced on August 25, 2022. After discussion, the Hearing was adjourned to September 8, 2022.
- On September 8th, there was considerable discussion on possible voluntary conditions, and the Hearing was adjourned again to October 13, 2022.
- On October 11, 2022 we received a written offer of conditions from the Applicant.
- The October 13, 2022 PC meeting was cancelled due to Covid-19 exposures.
- This offer of conditions constitutes a change to the application, and we re-published the Public Hearing and sent out new Public Notices for the November 10th Hearing.
- Conditional rezonings are reviewed under Article 21 of the zoning ordinance. The process is outlined in that Article. Standards are in Article 10.
- If the township board is in agreement with a recommendation to rezone, they would have the required paperwork prepared to execute the conditional rezoning.
- This request with voluntary conditions is an amendment to the original application, however, the Public Hearing must be re-opened due to the changes.
- Tonight we will briefly review Article 21 and the Standards in Article 10.
- The PC is a recommending body – the township board makes the final decision – and the decision is subject to a referendum under state statute.

Chair Kalchik asked if the Applicant or their representatives wanted to speak.

Chris Grobbel, the agent for the Applicant made the following comments:

- Chris Amman, the property owner, is on-line and will make comments.
- They listened to the PC and incorporated comments into something that is hopefully approvable.
- On October 10th, they provided a list of six voluntary conditions under the conditional rezoning provisions of the state zoning enabling act.
- The first is a voluntary conservation easement on everything lakeward of that significant ridge. The only thing that would ever happen there is a stairway or walkway access to the shoreline from the houses.
- No more than four lots total after this rezoning. It is a 27.9 acre parcel. If they came in under open space Article 13, they could get as many as 52 units in there, and they are only asking for four parcels.
- The third thing would be compliance with the private road ordinance to get to those four parcels. Common in zoning is anything over three homes that are accessed goes from a driveway to a private road. They would stipulate up front that the driveway would be up to private road standards to serve all four lots.
- The fourth thing is stormwater. This would be required anyway by the county. You can't discharge stormwater in a greater quantity post development than pre development. You get a county permit. It would be stored on-site. The commitment would be that these four new lots would have no additional water that would get to Old Farm Road. It would be a combination of berms, catchments, and bioswales that would capture materials and groundwater infiltration would be the ultimate disposition.
- Commit to getting all permits. And on that line, he has provided a letter from the state that their determination is that yes, they will have to comply with setbacks of the township. This is not an area that will regulated by the High Risk Erosion program. That area is down by the shoreline, not up top. This comes from Robyn Schmidt letter back on May 6th he thinks.
- With those conditions, the request would be for rezoning limited to four new parcels.
- We lost (Realtor) John Watkins since the last meeting.
- Chris Amman wants to make some comments.

Chris Amman introduced himself. He thanked the ZA for his assistance. Chris is not doing this for the purpose of speculation or making a profit. He grew up in Michigan and has been to Northport and Lake Leelanau several times and fell in love with the area. His intention is to retain one parcel to build a home and sell the other three parcels to make it economically viable. He is happy with having four parcels. He wants to make sure that hes complying with regulations and township standards.

Public Comments:

Chair Kalchik opened the floor to public comments at this time, and asked the public to keep their comments within three minutes.

- Jim Holmes, 9615 E. Seth Road, wrote the letter complaining that his family's property would be most affected by the runoff. He doesn't believe that there is any amount of assurances, promises, or written agreements that could possibly remediate what would happen to them if this development does what its likely to do, that is create more runoff and go through their property. The other point is that the second page of his letter is not on the website record, and asked that it be part of the record. He noticed when looking at records, when Mr. Amman purchased the property it was under the name of a series limited liability company, not in his own name. The original deed went into a series limited liability company, that is a very

sophisticated investment vehicle for development. Questions the thought that this is just happenstance that he (owner) has to get some neighbors up there to help pay for this investment. This from the get-go was a development by taking ownership through a series LLC. Holmes can't buy into this. He hardly believes that paying too much for a parcel of property is reason enough to rezone. That's what this boils down to. Worse yet, he paid too much and then took title in a manner that he anticipates that this zoning request will go through so he could pull this off. There is no other reason to put this under a series LLC except for development. Thank-you, appreciate your time.

- Ken Arntz: Big question over whether state EGLE has jurisdiction over setback rules (bluff) or the township. If the letter from EGLE says that they have to adhere to zoning standards, then if the slope is greater than 50 percent, the setback is the difference in elevation times the slope. Another person in the township was looking at that and the setback is 135 feet. Are there engineering drawings? This will have to be verified. Setback is a big thing. If he goes by current EGLE standards it's a two tiered bluff and he's qualifying the bottom tier as his bluff, not the top tier. Ken does not know if that will hold water. But if it's the township, then it's (setback) the slope times the delta elevation difference. Ken thinks that this needs an engineering drawing verified, he doesn't know if that's occurred, he hasn't seen any documents on that. We know that the owner is putting in driveways coming off just for the lot. That's not what we're talking about. The impact to the existing road is what everyone is concerned about. He is trying to limit his costs to that little segment. We are looking at it from a neighborhood standpoint. That needs to be addressed very vigorously. Thank-you.

Hearing no further comments, Chair Kalchik closed the floor to public comment, and asked if there were any written comments.

ZA Patmore noted that there was no new written correspondence received since the last meeting.

Chair Kalchik closed the Public Hearing at 7:30 p.m. and directed the discussion back to the PC. Are there any questions at this time?

- The written conditions state that the conservation easement could be held by the Leelanau Conservancy or Leland Township. Is the owner serious about Leland Township?

Grobbel stated that was a typo, should say Leelanau Township.

- The PC noted that a potential density of 52 units was quoted tonight (by Grobbel). Where does that number come from? Do not see where that could happen.

Grobbel stated that this is not what they are proposing. That was based upon half acre density. Commissioner Harder questioned the 52 units quoting Article 13 where the multiplier is 0.15 for the Agricultural District, and with 27.9 acres that gives you four lots.

Grobbel stated that this is not the proposal. The idea is that there could be a lot more density there, and that is not what was proposed.

Harder stated that she wanted it clarified that maybe there could be more density, but not under the open space ordinance. That number is not accurate.

Grobbel stated that they are asking for a rezoning, and none of that is on the table right now.

Harder stated that they need to compare the allowable densities for a rezoning request, and the number that was presented is not right.

Grobbel stated that somewhere in the ordinance there is half-acre density, but they are only asking for 4 parcels.

- Has the Leelanau Conservancy evaluated the property for a conservation easement?

Grobbel: Under law, there are only a few parties that can hold a conservation easement. Typically the Leelanau Conservancy, where he worked for many years, and still does work for, does not take this kind of easement. They want it to happen at the township level. In difficult cases they might step up and be a bridge holder. It would ultimately be the township who holds it. A conservation easement can only be held by a land trust, State of Michigan, or a local unit of government, nobody else. The point is that there be a conservation easement held by whomever agrees to hold it. If we get a rezoning we would go ask the Conservancy. Could possibly do a deed restriction.

- Would the proposed access to the shoreline down the steep slope require an EGLE permit?

Yes

- Discussion on what a conservation easement contains – tailored to a specific project.

- Would all four lots have access to the walkway?

To be determined by the owner. What is being discussed is two larger lots with shoreline access and two back lots marketed for small scale farming that would not have shoreline access.

- Robyn Schmidt’s letter mentions the potential of wetlands on the property. Is there a map?

Grobbel stated that there is nothing up above that we are talking about tonight. Down below there are probably wetlands near the shoreline, and nothing is proposed there.

- The letter from Robyn Schmidt states that this property is regulated under Part 323, and states that all work anywhere on the property requires an EGLE permit. That is confusing from what the PC has been told tonight.

Grobbel stated that the ECL is the zero point that you measure back from, and we are hundreds and hundreds of feet away from that.

- But you still need EGLE permits for septic and construction?

Grobbel: No, they (EGLE) have said that what the owner is proposing to construct, that they have no jurisdiction. Their jurisdiction is down on the shoreline. He talks with Robyn almost every day and they will certainly let her know what they are doing. There is no need for a permit to do what they are proposing for four houses up on the bluff.

ZA Patmore noted that Robyn’s email states that construction and septic system work anywhere on the parcel requires a permit. That has been his experience.

Grobbel: The 30 year and 60 year setback are way down.

Patmore: He understands that the setbacks are determined by EGLE from the ECL, but the entire parcel is designated as within the High Risk Erosion Area (HREA).

Grobbel: we can stipulate that with a changed condition if need be, but their jurisdiction is a long ways away. There is no Critical Dune designation, so there is no broader jurisdiction beyond their setbacks.

Patmore: the entire parcel is listed as within the HREA.

Grobbel: but that means you have a 30 year and 60 year setback. If you are landward of the 60 year setback, they have nothing to say about what you build, “and you know that”.

Patmore stated that he doesn’t agree with that statement, and it conflicts with the EGLE email that was submitted.

Harder stated that Grobbels statements conflict with the email.

Grobbel said that they can get this all cleared up if that is a condition.

Mitchell noted that the Applicant will still need to get any and all required permits. If they need an EGLE permit, they will have to get an EGLE permit.

The township is covered, it's just that there were conflicting statements made.

- Article 15 – Environmental Standards does not regulate bluffs that are within a High Risk Erosion Area. Is the Applicant offering to meet these standards when they are exempt?

Grobbel: Yes, the setbacks will be based upon the formula.

Patmore: you don't need to do that, the ordinance is clear that it defers to the state when the parcel is designated as HREA.

Grobbel: Condition number 4 says that we will meet the township setback when we come in for Land Use Permits.

- The Application states that the zoning change is in accordance with the Master Plan - the Master Plan delineates this area as Residential Conservation with a ten acre density.

Grobbel replied that the Application was intended to show that the four proposed lots would be consistent with the Master Plan and the existing surrounding properties.

Findings of Fact on the Rezoning Criteria – Section 10.7.A of the zoning ordinance

The Planning Commission shall consider not less than the following criteria in its evaluation of a petition to rezone property within the Township prior to making its recommendation to the Township Board in accordance with Article IV of Act 110 of the Public Acts of Michigan of 2006, as amended.

ZA Patmore noted that this does not necessarily state that all of these criteria have to be met – just that they must be considered by the Planning Commission.

1. The Planning Commission should first consider whether or not the map change is appropriate; that is, whether the proposed use could be better accommodated by amending the zoning ordinance text itself to allow the use as permitted use or as a special condition land use.

The Leelanau Township Planning Commission finds:

- *Under the existing agricultural zoning the underlying density is ten acre lot size, however, under the Open Space Residential Development (OSRD) provisions in Article 13, a property owner with 27.9 acres could get four lots on this property provided the 50% Open Space provision and other provisions are met.*
- *The OSRD process is not a PUD or Special Use Permit.*
- *The Applicant does not want to cluster, and wants to have two, ten acre lots and two smaller lots. This configuration would not meet Article 13.*
- *The PC does not want to amend the provisions of the Agricultural Zoning District that would allow the desired configuration.*
- *The proposed voluntary condition of a maximum four lots would result in the same number of lots as an OSRD in the Agricultural Zoning District would allow.*
- *The proposed voluntary condition of a conservation easement would be similar, but not exactly the same, as the OSRD Open Space requirements.*

2. The applicant should demonstrate that there is evidence of a changed condition. This evidence can be provided in terms of an evaluation of land use trends in the vicinity or through the submittal of a marketing study.

The Leelanau Township Planning Commission finds:

- *A regional housing study shows a need for housing of various housing types.*
 - *Previous review of rezoning requests in Leelanau Township have recognized the need for additional housing sites.*
3. The rezoning request should be evaluated for consistency with the adopted master plan. This includes the future land use plan map, any adopted sub-area development plan, as well as for consistency with the master plan narrative.

The Leelanau Township Planning Commission finds:

- *The 2010 Leelanau Township Master Plan Future Land Use Map delineates this parcel as Rural Residential.*
 - *The current Rural Residential zoning language would allow an Open Space Residential Development with a density greater than what is being proposed.*
 - *The township is in the process of updating the 2010 Master Plan.*
 - *The proposed voluntary conditions would bring the Application in line with the density of the Rural Residential District.*
4. The proposed zoning should be evaluated for its compatibility with the existing land use pattern. The community should ask itself if uses in the proposed zone are equally, less, or better suited to the area.

The Leelanau Township Planning Commission finds:

- *The Applications with conditions is compatible with existing land use patterns.*
 - *There is active agricultural production in the immediate vicinity, and the Applicant should consider that when siting their houses.*
 - *It was suggested that the Applicant consider a voluntary condition to increase the minimum R-1 setbacks on this property.*
5. The evaluation of the rezoning should also consider if the proposed use could be built on the subject site if it were to be rezoned. Is the parcel size sufficient? Are there environmental restrictions (i.e., soils, wetlands, floodplains, etc.) that would make the site non-buildable or are they showing that the property cannot be used as presently zoned due to these limitations?

The Leelanau Township Planning Commission finds:

- *The Application has shown that they could get four houses on the property.*
- *The property is designated by the State of Michigan as a High Risk Erosion Area. The property owner will be required to get approval and permits for any construction on the property. Michigan EGLE has jurisdiction over the bluff setback.*
- *Although the regulated bluff setbacks in Article 15 of the zoning ordinance defers to*

the State of Michigan when the property is in the HREA, the Applicant has submitted a voluntary condition to meet the Article 15 bluff setback requirements.

- *According to the Applicant, any wetlands on the site are located in the lower area and would not be impacted.*

6. Is the site served by adequate public facilities or is the petitioner able to provide them?

The Leelanau Township Planning Commission finds:

- *Old Farm Road is not in adequate condition to provide adequate emergency services.*
- *The Leelanau Township Private Road Ordinance has provision for the use of pre-existing private roads that requires a private road to meet minimum standards prior to issuance of Land Use Permits. This will be resolved at the time of Land Use Permits.*
- *The proposed four lot maximum is no more than could be created under existing zoning.*
- *The Leelanau County Road Commission is responsible to review any Land Division request. They will have the responsibility to review the impact to the public portion of Seth Road.*

7. Are there sites nearby already properly zoned that can be used for the intended purposes?

The Leelanau Township Planning Commission finds that the Application with voluntary conditions meets this criteria.

8. Is the proposal consistent with the established zoning pattern or does it represent spot zoning? For purposes of this Ordinance, spot zoning shall be defined as the assignment of a zoning classification different from the surrounding zoning classifications to a relatively small land parcel, intended to benefit a particular property owner, which is incompatible with the surrounding area and is also in violation of the community's master plan.

The Leelanau Township Planning Commission finds that the Application with voluntary conditions does not represent spot zoning.

9. Would a lesser district classification be more appropriate? The petitioner may want a R-3 district; however, a R-2 district may permit the proposed use.

The Leelanau Township Planning Commission finds that the Application with voluntary conditions meets this criteria.

10. The community should evaluate whether other local remedies are available which are better suited to the circumstances of the petition.

The Leelanau Township Planning Commission did not identify any other remedies.

Discussion on proposed voluntary conditions submitted by Applicant:

Condition 1: Change Leland Township to Leelanau.

Condition 2: Ok

Condition 3: Change "he" to "the".

Condition 4: Add the word "be" between the words "to" and "retained".

- Condition 5: Add “voluntary compliance with” Township steep slope setback.
- Condition 6: No typos, however the PC and Staff disagree with the Applicant’s conclusion that the email provided to the township states that EGLE has no jurisdiction other than at the lakeshore.

Motion by Mitchell to recommend approval of the Application submitted by Chris Amman to rezone property no. 45-008-232-014-00 on Seth Road from Agricultural to R-1 Residential subject to the voluntary conditions submitted by the Applicant including the voluntary amendments to the conditions discussed tonight. This decision is based upon the Rezoning Criteria Findings of Fact, and considering the Application and Public Hearing.

Seconded by: Harder

Discussion: Rebori would like to see a clean copy of the voluntary conditions before voting.

***Roll Call Vote: Weber – Yes
Mitchell – Yes
Rebori – No
Harder – Yes
Hart – Yes
Kalchik – Yes
Fischer – absent***

Motion Carried 5-1

