

**Bingham Township Planning Commission  
Meeting Minutes  
March 4, 2004  
Bingham Schoolhouse,  
7171 S. Center Hwy, Traverse City**

**Call to Order:** 7:00 p.m.

**Roll Call:** Robert Gregory, Ron Collins, Mike Park, Will Bunek, Cathy Jasinski & Marsha Walton. Don Kiessel absent. Quorum present.

**Staff Present:** Steve Patmore and Dorothy Petroskey

**Guests Present:** Bob Otwell, Midge Werner, John Werner, Bill Grant, Lois Bahle, Stuart Whittaker, Tom Phillips, George Thompson, Dave Monstrey, Tom & Carol Beeler, Norene Kastys, Rich Bahle and Missy Luyk.

**Agenda Approval:** Recommendation to hear the Beeler project prior to the Leelanau Trail as the trail will likely take up most of the evening. Agreed by consensus. **Move by Park support by Bunek to approved the agenda as amended.**

**Ayes: All                      Motion Carried**

**Approval of the Minutes:** Minor corrections made.

**Move by Jasinski support by Collins to approve the minutes as corrected.**

**Ayes: All                      Motion Carried.**

**Public Comment:**

Rich Bahle asked the commission to consider events being held on agricultural property—Orchard Events. The commission to discuss next month.

Marsha Walton announced that BATA was meeting with focus groups to determine time schedules. A form/questionnaire was available for the public, which she placed on the agenda table.

**Old Business:**

**Trillium Development:**

Applicant representative Steve Patmore introduced Tom Beeler, owner of Trillium development. Beeler stated that they had prepared a response to Gordon's concerns and would like to meet with

Gordon personally to discuss these issues. Jasinski felt that the commission should be the body to decide the design objectives. Chairman Gregory asked Gordon to review these issues so the public was informed. Gordon Hayward read his report into the record.

The applicant presented his response to the commission. Beeler added that he is trying to design a development that meets the market needs as well as keep affordable. He also expressed his disdain that the Township attorney had not sent an opinion on the deed restrictions.

The Commission by consensus agreed to have Gordon review the comments received this evening and bring back his response, He would not be meeting with applicant personally.

Move by Jasinski support by Park to table this agenda item and take it to public hearing at the April 1, 2004 meeting.

Ayes: All Motion Carried.

### **Leelanau trail Continued Public Hearing**

The commission reviewed the following possible conditions and remaining items to be discussed.

Findings of Facts and Conditions for Special Use Permit for the Leelanau TART Trail.

Parking:

1.

Finding of Fact:

Required off-street parking for the trail is currently being provided by designated parking lots in adjacent Townships.

A use and access study performed by LTA in 2003 indicates that only a small percentage of users accesses the trail by parking vehicles at crossing points.

A single off-street parking area in Bingham Township would still not alleviate most of the on-street parking.

To our knowledge, there have been no parking problems related to the trail in Bingham Township, although the crossing with Center Highway near Fort Road has the potential for problems.

Conditions:

The Leelanau Trail/TART does not have to have a designated parking area at this time and the Township shall:

- 1) pursue a Traffic Control Order to prohibit parking on Center Highway at the Trail Crossings;
- 2) The LTA shall provide the Township with user surveys as available.
- 3) The Township reserves the right to initiate additional Traffic control orders or amend the Special Land Use Permit by requiring off street parking in the event one or more of the following:
  - a) the Leelanau County Sheriff's Department or Road Commission determines that on-street parking is becoming a traffic problem or
  - b) Bingham township shall reserve the right to revisit this issue by discretion of the zoning administrator and a quorum of the planning commission and will have an automatic review of the special land use permit every five (5) years to assess the impact on the Township.

The commission felt that the committee should look at the wording in #3 above.

Paving:

2.

Findings of Fact: Paving, gravel or crushed limestone could effect the essential character of the Township, however by a 4-3 vote the following condition was approved.

**Condition:**

**The Leelanau Tart Trail may improve the surface of the trail using crushed stone, gravel, or paving with the idea they will provide higher standards for ag crossings. Additionally, the applicant agrees that all adjacent property owners shall be held harmless by the applicant and their successors for the normal wear and tear at existing crossings at the trail. Further that the applicant shall comply with all standards in Section J and that they obtain all applicable permits**

Tom Phillips would like the commission to add, "This condition does not supercede a judicial decision or a written agreement/contract that is in place." The commission would

like to incorporate ASHTO standards as well.

**Signage:**

3.

**Findings of Fact:**

**In order to protect the health, safety and welfare of the residents of Bingham Township and the Trail users; to protect the natural environment, conserve natural resources or energy, too ensure compatibility with adjacent uses of land, to promote the use of the land in a socially and economically desirable manner and to ensure public services and facilities affected by the proposed land use or activity will be capable of accommodating the increased activity the following safeguards and conditions shall be imposed:**

**Condition:**

**Yield signs shall be placed at each agricultural crossing “to yield to agricultural vehicles” crossing unless LTA/TART acting manager has a written agreement with the adjacent property owner that fore goes this for the people traveling on the trail coming up on crossings. Further, future crossings if approved, shall yield to agricultural vehicles, but in case rail trail service is reestablished in the future, agricultural vehicles would yield to rail traffic.**

**Further, if site distance is a concern, a stop sign shall be installed.**

Bob Otwell read his letter into the record regarding the trail user and Yield signs. Discussion ensued. Comments from the audience and commission indicated that Bingham Township is supported by its agricultural community and the burden this would impose on the adjacent land owners. Chairman Gregory stated that the commission is trying to address what is best for Bingham Township and their residents. The commission will err on the side of safety. Park stated that in committee meetings it was discussed how unique Bingham Township is. He stated at the heavily used crossing it might be necessary for the trail user to yield. Gregory added that the commission needed to use good common sense. George Thompson, attorney for the trail, stated that consistency was important to prevent liability.

**Condition:**

**Signs shall indicate quiet areas within 150 feet of current dwellings. This shall also be indicated at borders and parking lots informing the users of quiet zones.**

The commission felt that “within 150 feet of a dwelling” should be struck. The applicant added if a property owner wants a sign placed on the trail indicating such, then they could

request one.

**Condition:**

**Signs shall be erected that state the trail user is not to leave the trail and to respect the private property on its neighbors.**

**Condition:**

**Signs shall be placed at major trail access points notifying trail users of farming operations and specifically that chemicals are being used in areas of active orchard and vineyard areas.**

Gregory added there was additional language regarding pesticides that he would provide.

**Signage:**

**Signs shall indicate that animals on the trail shall abide by all county laws imposed- specifically the Animal Control Enforcement Ordinance. in effect.**

**4. Hours of Operation:**

**Condition: Hours of Operation for all recreational uses shall be from 8:00 a.m. until 10:00 p.m. Hours of Operation for Transportation users shall be from Dusk to Dawn.**

The commission and the applicant agreed to strike Hours of use for Transportation and instead make it uniform 8:00 a.m. until 10:00 p.m..

**Grooming hours- The Trail shall not used motorized vehicles on the Trail before 8:00 a.m. or after 8:00 p.m. for purpose of grooming the trail or any maintenance thereof.**

**5. Drainage-Steep Slopes-Safety Rails: ASHTO standards?**

**Conditions:**

**Side slopes shall be provided to meet ASHTO standards and shown on the final site plans.**

## **6. Trespass-Legal Liability**

The commission discussed trespass issues and how to prevent trespass. The applicant stated that if there was an area that deemed to be a problem area, the applicant would consider fencing. Resident John Werner expressed concerned for adjacent property owners and liability for trespassers that enter on to their property. George Thompson stated under the Recreational User Act the property owner is not liable. Brief discussion regarding insurance law.

### **Conditions:**

- A. Natural vegetative buffers and/or fences shall be installed to restrict trespass onto adjacent lands, as outlined on the trail drawings.
- B. When a trail invitee leaves the trail and trespasses on private lands and causes actions that initiate legal activity that cause private property owner(s)/occupier(s) to bare financial costs [except when gross negligence is proving against private property owner(s) or occupier(s)] the trail owners and/or operators shall hold said owner(s)/occupier(s) harmless and further reimburse all costs to said parties including legal fees incurred as a result of said trespass.
- C. Trail owner/operators shall maintain a minimum of one million dollars in liability coverage that names adjacent property owners as “also insured”.

## **7. Events-**

**Conditions: The commission will review event language similar to that of the winery and discuss proposed areas for events to be held.**

## **8. Screening for neighboring property owners: Denoyer, Kiessel, Petroskey, Mucherino, Whittaker**

Mike Park stated that the applicant had agreed to screening and is outlined in the committee meetings. Stuart Whittaker asked that the east-side of the trail be fenced on his property.

### **Conditions:**

**9.**

**Vegetative Clearing-**

**Conditions:** Suggestion to review ASHTO standards for site distance and storm water run-off areas.

**10. Outdoor Lighting:**

**Conditions:** No outdoor lighting is requested.

Bunek felt that a statement should be made that lighting shall meet the Ordinance standards.

**11. Location of Picnic Tables- further discussion next month.**

**Discussion-**Final Site Plan shall show the location of the following:

Portable Toilets: Removal and erection timetables. Screening of such.

Restrooms constructed, benches, telephones. All Applicable permits shall be required prior to a special land use permit be issued.

The commission tabled further discussion due to the lateness of the hour. The applicant requested to be heard first on the agenda next month.

Parking Standards: The commission reviewed the language presented this evening with last month's changes. Bunek suggested deleting the second paragraph as it is stated in the preceding paragraph; adding "through" rather than a hyphen in B-P.

It was noted by Park that the parking for golf courses was not consistent with Article 4. Suggested amending to reflect those changes made on September 21, 1994.

**Move by Bunek support by Park to approve the language presented with the changes made this evening and take this matter to public hearing at a time when other zoning amendments will be brought.**

**Ayes: All Motion Carried**

**Chairman Report-**None

**Township Board-** Collins stated that the Kiley Project was resolved and give Township Board approval.

**Zoning Administrator-**written report submitted. Patmore discussed the Shugart Plat and Orchard Activites. He stated that the applicant presented this last month and the commission has 60 days to act. Patmore suggested this item be place on next month's agenda.

**Next Month=s Agenda:**

Leelanau Trail continuation public hearing-7:00 p.m.

Trillium Development Public Hearing –8:00 p.m..

New Business: Orchard Events

**Public Comment:**

Supervisor Midge Werner discussed Art 3.13.4 and asked if the Applicant for TART has submitted a community Impact statement. She discussed paving, safety, run-off as well as site plan review. She added that safety is a major issue and needs to be considered. Werner added that the applicant will need to come to the Township Board for re-zoning.

**Move by Park support by Collins to adjourn.  
Ayes-All Motion Carried. Meeting adjourned 10:35 p.m..**

**Respectfully Submitted  
Dorothy Petroskey**