

**DOWNTOWN DEVELOPMENT AUTHORITY
LOWER BOARDMAN RIVER LEADERSHIP TEAM
ZONING SUBCOMMITTEE**

Tuesday, October 13, 2020
10:00 a.m.

The Lower Boardman River Leadership Team Zoning Subcommittee Meeting will not be held at the Governmental Center. The Lower Boardman River Leadership Team Zoning Subcommittee will be conducted remotely via Zoom Webinar.

The Lower Boardman River Leadership Team Zoning Subcommittee Meeting can be viewed at:

<https://us02web.zoom.us/j/89844341095>

Anyone wishing to listen and give public comment will need to call in and wait in a “virtual waiting room” where their microphones will be muted until they are called upon:

Dial: 312 626 6799

Meeting ID: 898 4434 1095

Participant ID: # (yes just #)

Posted and Published

The DDA recognizes the importance of not bringing people together unnecessarily in an effort to stop the spread of the coronavirus. The Governmental Center has been closed to walk-in traffic and will be closed for all DDA, Lower Boardman River Leadership Team and Lower Boardman River Leadership Team Subcommittee meetings for the foreseeable future. Members of the Lower Boardman River Leadership Team Zoning Subcommittee will not be present in the Governmental Center for official Lower Boardman River Leadership Team Zoning Subcommittee meetings.

This meeting is being conducted remotely to assist in stopping the spread of the coronavirus. Individuals with disabilities may participate in the meeting by calling-in to the number as though they were going to be giving public comment as outlined below or by calling the TDD#.

For members of the Lower Boardman River Leadership Team Zoning Subcommittee members and key DDA staff, their name will appear on screen when they are speaking. For individuals who may wish to give public comment, the method for providing public comment during these remote-participation meetings is to call the number outlined in the header as well as enter the Meeting ID and Participant ID as outlined in the header.

Callers wishing to give public comment may call in before the meeting starts and wait in a “virtual waiting room.” These instructions will be included in every official published agenda of the Lower Boardman River Leadership Team Zoning Subcommittee. Those calling in will be able to hear the audio of the Lower Boardman River Leadership Team Zoning Subcommittee meeting, yet their microphone will be muted.

When the Lower Boardman River Leadership Team Zoning Subcommittee accepts public comment, in the order calls were received, the meeting facilitator will identify the caller by the last four digits of their telephone number and ask them if they would like to make a comment.

While not required, but so we do not have to go through an unnecessarily long list of callers, we ask, if possible, that those who do not wish to give public comment refrain from calling in and instead listen to the meeting.

The DDA CEO has been designated to coordinate compliance with the non-discrimination requirements contained in Section 35.107 of the Department of Justice regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereunder, are available from the DDA office.

If you are planning to attend and you have a disability requiring any special assistance at the meeting and/or if you have any concerns, please immediately notify the DDA CEO

The DDA and Lower Boardman River Leadership Team is committed to a dialog that is constructive, respectful and civil. We ask that all individuals interacting verbally or in writing with the Lower Boardman River Leadership Team honor these values.

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Lower Boardman Leadership Team Zoning Subcommittee Meeting Agenda

1. Opening Public Comment
2. Discussion of Zoning Recommendations
3. Next Steps and Reporting Out To The Full Leadership Team
4. Public Comment
5. Adjournment

Any interested person or group may address the Leadership Team Zoning Subcommittee on any agenda item when recognized by the presiding officer or upon request of any Leadership Team Subcommittee member. Also, any interested person or group may address the Leadership Team Zoning Subcommittee on any matter of concerning the Lower Boardman River not on the Agenda during the agenda item designated Public Comment. The comment of any member of the public or any special interest group may be limited in time. Such limitation shall not be less than five minutes unless otherwise explained by the presiding officer, subject to appeal by the Leadership Team Zoning Subcommittee .



Downtown Development Authority
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MEMORANDUM

To: Lower Boardman Leadership Team, Zoning Subcommittee

From: Harry Burkholder, DDA COO

For Meeting Date: October 13, 2020

SUBJECT: Review and Status of the Zoning Recommendations

For this meeting, we will be reviewing in more detail the discussion points/amendments from the last subcommittee meeting (see attached). It is very important that you review the materials ahead of the meeting to ensure that we have an insightful and productive discussion.

While the Zoning Subcommittee is made up of a subset of the Leadership Team, any Lower Boardman Leadership Team member is welcome to attend and provide input.

Lower Boardman River UNIFIED PLAN

Excerpt from draft Chapter Three: Action Plan

October 5, 2020

Community and Development Policies

A. What needs to change and why

Recognizing an explicit commitment to the principles of public trust in the protection of the river as a community commons, regulatory policies that guide building and development in the downtown area should be amended to reflect the vision and values of the Lower Boardman River UNIFIED PLAN.

Modifying public policy will impact private land development, as these are the regulations and guiding documents that shape the use of the land in our community. However, the intent in modifying these regulations and guiding documents is also to establish standards by which public improvements must abide. The Riparian Buffer Ordinance is intended to work in concert with other codes and ordinances to clarify the principles and standards that guide public policy and private development decisions about any practice that impacts the flow, ecological health, and protected uses of the river as a public trust commons.

Specific language is proposed as part of this chapter to provide a guideline in modifying existing and proposed ordinances; however, each of these amendments will need additional effort and conversation with the city planner and planning commission prior to adoption.

B. Core Values

The following Core Values, established at the outset of the planning efforts, most align with the management of private and public development along the river:

- 1. Help ensure that new or rehabilitated developments along the river are compatible with the City's renewable energy goals.*
- 2. Establish that development sites, destinations and structures must protect the health, aesthetics, accessibility, and health of the relationship between the river and residents/visitors.*
- 3. Use the natural and cultural values of the river as a guide for decisions about the commercial, economic, or utilitarian values to be leveraged for the public good.*
- 4. Prohibit further hardening of the shorelines that are inconsistent with the Unified Plan.*

C. Riparian Buffer Ordinance

The Traverse City Planning Commission is currently considering a new ordinance which will regulate the edge and buffer of the Boardman Lake, Boardman River, and Kidd's Creek to

create and protect riparian habitat, improve water quality, and maintain a more natural edge to the river.

The purpose of the Riparian Buffer Ordinance is to preserve areas that intercept and filter surface water runoff and improve water quality while also providing community scenic and recreational values. As defined in the draft ordinance the riparian buffer zone shall include all land located within twenty-five (25) feet of the ordinary high-water mark (subject to refinement based on slopes) and specific location along the water body.) The ordinance is written to protect and enhance a larger part of the community than just the study area of the UNIFIED PLAN but is a suitable regulatory tool for the downtown waterfront.

The importance of the Riparian Buffer Ordinance to fulfilling the goals and value of the UNIFIED PLAN and addressing the primary concerns expressed by the public cannot be overstated. The ordinance should be aspirational in its charge and supported by the community.

Key standards included in the draft ordinance are:

1. No development, permanent structures (including fences) or parking area(s) shall be allowed within the riparian buffer zone.
2. Existing vegetation shall be preserved
3. If the natural vegetation, then that vegetation shall be replaced with similarly sized native or native cultivar trees and other woody vegetation.
4. A mowed lawn to the water's edge is prohibited.
5. Any tree listed on the State of Michigan Invasive Species list that has been identified may be removed.
6. No permanent structure, including fences, shall be allowed within the riparian buffer zone.
7. Allows but limits walkways, tree pruning, tree removal, and similar.
8. Fertilizers, manures, and chemicals shall not be used, stored, or located within the riparian buffer zone area. Same with unsightly, offensive, or potentially polluting material (leaf piles, trash, etc.)
9. No break walls, seawalls, bulkheads, broken concrete, rubble, rock riprap, or other shoreline hardening materials
10. Provides for lot limitations and developability.

The proposed ordinance is an opportunity to promote a "river first" approach in the protection and enhancement of the river consistent with the Values expressed in this UNIFIED PLAN and through the public input and engagement. To address downtown specific issues, the following recommendations are proposed for the draft ordinance:

1. The draft ordinance currently covers only private walks on private lands but should also address publicly access paths and service pavements that are parallel to the river, and patios/public gathering places along river.

Current draft language states:

“Private Pathways meeting the following conditions:

- (a) The pathway(s) shall be perpendicular to the waterfront.
- (b) The pathway(s) shall be constructed of permeable material that does not allow surface water to drain directly into Boardman Lake, Boardman River, Kids Creek or Grand Traverse Bay.
- (c) No more than two pathways, not to exceed a combined width of the greater of 10 feet or 20% of the total lot width, shall be constructed.”

To help manage publicly accessible paths and service drives, the UNIFIED PLAN recommends adding text as follows:

“**Publicly** accessible paths parallel to the river are allowed, provided they do not exceed 10 feet in width (or up to 40% of buffer, whichever is less). **Publicly** accessible patios and gathering spaces are also allowed in the Riparian Buffer, provided they do not exceed 20% of the buffer area. The maximum area allowed in cases where a combination of patios/gathering spaces, publicly accessible paths, and privately accessible paths is 50% of the total Riparian Buffer. For purposes of this ordinance, publicly accessible shall mean that the public has full access to use the space, without regard to patronage of a business or residential status.

All paved or walkable surfaces must be constructed of permeable paving or drain directly to storm water treatment measures. At grade paths parallel to the river and patios/gathering spaces shall be setback from the Ordinary High-Water Line a minimum of 10 feet. Such facilities that are closer to the OHW for purposes of access to the water or preservation of natural features shall be constructed as elevated decks, with the exception of watercraft launching facilities.

Service drives, driveways, paved working/service areas, materials or refuse storage are not allowed in the Riparian Buffer.”

2. Public input clearly supports regulations that regulate vertical wall construction as shoreline stabilization treatment. Walls that occur below the Ordinary High-Water line are regulated through the U.S. Army Corp of Engineers and EGLE and are not restricted by this Riparian Buffer Ordinance. These regulatory bodies do not encourage the use of vertical walls for the same reason that proposed Riparian Buffer Ordinance does not, as vertical walls taken as a singular solution to slope issues do not provide habitat benefits and can contribute to flooding issues elsewhere.

The proposed ordinance contains language to address the use of vertical walls, as follows:

“No new private break walls, seawalls, bulkheads, broken concrete, rubble, rock riprap, or other shoreline hardening materials.....shall be located within the riparian buffer zone.”

To strengthen and clarify this regulation, the following text is proposed in addition:

“Existing vertical walls that require replacement during site re-development must be assessed to determine if alternative methods of slope stabilization may be employed. If limitations of space due to the preservation of historic resources lead to replacement of vertical walls, the new walls shall include fisheries habitat enhancements in accordance with the Unified Plan and designed to include landscape-based slope stabilization where possible. Where vertical walls are required, the width of the riparian buffer shall be increased to 30 feet.

(sketch/photos to give examples)

This ordinance recognizes that the urban context of downtown Traverse City may not encourage pure landscape, habitat based, or “green” solutions, but for these sites there is a need to find solutions that create real habitat benefits. Rip Rap may be required to stabilize slopes in high current areas, or on steeply sloping banks. When required rip rap shall be natural stone and used in concert with landscaping and organic stabilization methods to increase natural habitat.”

3. Restrict direct stormwater flow from riparian lots into the river.

There are two key strategies for ensuring this objective is achieved-

a) The City of Traverse City should adopt Downtown Stormwater Guidelines and Best Practices (as prepared by AECComm) for all downtown areas of Riparian Buffer.

b) Refine and adopt the Riparian Buffer Ordinance to strengthen the ordinance, adding-

“Paved surfaces, including service areas, parking, walks and patios, which are located on all property that includes or is adjacent to a Riparian Buffer, shall not be allowed to drain directly into the river without pretreatment as outlined in the Downtown Stormwater Guidelines.”

4. Encourage the use of native plants and the preservation of healthy existing native trees.

Refine and Adopt Riparian Buffer Ordinance to be specific on riparian and aquatic plantings in the buffer. Add-

“Landscaping in the riparian buffer zone shall include only native or native cultivar trees, native woody shrubs and understory trees, and native grasses and flowers. Plantings shall be arranged and selected to retard water runoff, prevent erosion, and create wildlife food sources, nesting habitat, movement corridors, and protective cover. Selection of landscape plants shall include a diversity of species within any one plant type and shall be suitable for the

conditions of the proposed habitat and reflective of the plant specie’s native habitat.”

5. The proposed Riparian Buffer Ordinance allows the following:
“Manicured lawns may be mown up to a distance of six (6) feet from the water’s edge. (A six (6) foot unmown buffer must remain from the water’s edge.)”

While this allowance may make sense for single family residential properties that are regulated by the ordinance, for the Lower Boardman River reaches the following clarification should be included in the proposed ordinance:

“Manicured lawns are not allowed in the Riparian Buffer for all sites within frontage along the Lower Boardman, from Boardman Lake to the bay.”

6. Clarify the width of the riparian buffer to reflect the building setbacks allowed in the downtown pursuant to more specific zoning ordinances (as modified in section “D. Zoning Ordinance Changes” section below)

Refine the Riparian Buffer Ordinance, adding-

“The Riparian Buffer Zone shall be ten (10) feet wide from the ordinary high-water mark for sites zoned C-4a for sites zoned as such that are located south of the river and east of Park Street. Other sites zoned C-4a shall have a 25-foot Riparian Buffer Zone.”

D. Zoning Ordinance Changes

The UNIFIED PLAN supports the modification of zoning ordinances to manage the scale, placement, and site improvements of new development consistent with the Core Values of the UNIFIED PLAN. These proposed changes to existing ordinances are, for the most part, intended to support and further codify the new Riparian Buffer Ordinance.

Amendments may be made to the applicable zoning district including OS Open Space, R-29 Multiple Family, C-3 Community Center District, C-4 Regional Center District, and Development Districts D-1 Ironwoods and D-2 Depot. To the greatest extent possible, all new approvals shall be administrative or departmental review unless already part of a Planning Commission review process in accordance with Redevelopment Ready Communities (RRC) Best Practices.

1. Create additional setback for parking from the OHW line
 - a) Adopt the Riparian Buffer Ordinance, which says “No development, permanent structures (including fences) or parking area(s) shall be allowed within the riparian buffer zone.”
 - b) Amend ordinance 1374.03 *Motor Vehicle Parking*, subsection (c) *Location of parking areas*, as follows: “(6.) Parking is not allowed within the Riparian Buffer, pursuant to the Riparian Buffer Ordinance.”
 - c) Amend Ordinance 1346.04 *C-4 District*, subsection *Setbacks*, as follows: (g) Parking is not allowed within the Riparian Buffer, pursuant to the Riparian Buffer Ordinance.”

2. Restrict the creation of public and private parking within the river corridor.

Parking is not required in C-4 Districts ([check other districts](#)), which is most of downtown. Ordinance 1364 C-4 Districts states “No parking is required in this district, however, if parking is provided, it must meet the standards contained in Chapter 1374, circulation and parking and restrictions of this chapter.”

This ordinance is, coupled with the proposed changes to the ordinances noted above, is effective at discouraging and managing the design of private parking in downtown, and restricting all parking from locating directly adjacent to the river.

3. Establish and maintain appropriate building setbacks for development along the river in response to public input.
 - a) Amend Ordinance 1346.04 C-4 District, Setbacks, subsection (e) Water Setbacks.
 - C-4a sites that are located south of the river and east of Park Street: 10-foot setback from OHW
 - C-4b and C-4c (and remaining C-4a sites): 25-foot setback from OHW
 - b) Amend Ordinance 1368.02 Size and Area Requirements, subsection (b) Setbacks Required with same language.
 - c) Maintain current water setback of 25 feet in zoning districts OS-Open Space, R-29 Multi-family, D-1 Ironworks Development, D-2 Depot Development, and GP Government Building.
4. The Vision Statements of the UNIFIED PLAN Leadership Team include the following: “Help ensure that new or rehabilitated developments along the River are compatible with the City’s renewable energy goals.” Similar themes emerged from public engagement to require or at least encourage development in the project are to be sustainable and green, through building codes and/or zoning ordinances.

Given the proprietary nature of sustainable building programs, the untested legal merit of enforcing codes more stringent than are required by states, and the ongoing shift in state codes to green building practices, communities in the state of Michigan have been reluctant to adopt their own requirements. Other communities across the country have adopted their own requirements, establishing new point systems for achieving compliance.

Some Michigan communities are encouraging the use of green building practices such as the use of sustainable building materials, energy efficiency and production, habitat creation, bird safe windows, and reuse of building water. Increasing building height and development density is often used as an incentive to induce developers to create public benefits such as green building techniques. Based on current Traverse City laws, development over 60 feet is highly discouraged due to the need for a public referendum to increase building heights.

This topic requires a larger conversation with the community, as the goals and values of green building do not directly correlate with the preservation and enhancement of the river corridor, and they have community wide potential and benefits in creating a resilient city.

5. Integrate lighting guidelines into the appropriate sections of the city zoning and regulatory ordinances.

No immediate Action required, as Chapter 1375 Outdoor Lighting ordinance has clear guidelines to encourage dark sky compliance.

6. Encourage businesses that have both a street frontage and a river frontage to activate the waterfront side of their business.

Chapter 1346, R-4 Districts includes “Buildings along Boardman River should be designed to integrate with both the sidewalk and river walk systems.”

To strengthen this intent section 1346.09 (1) of this ordinance should be amended as follows:

“The predominant building wall and entryway shall face the public or private street. Where adjacent to the Boardman River, or to public land that is adjacent to the river, the building shall have a public entrance and architectural features denoting a public entrance facing the river.”

7. The ordinance definitions and use restrictions for setbacks for all districts in downtown need to be scrutinized and amended for consistency, and to reflect the guidelines of the proposed Riparian buffer Ordinance and the UNIFIED PLAN.

E. Regulatory Ordinance changes

A great deal of the public input gathered during the planning process supported ideas that are best implemented through changes to the Codified Ordinances of Traverse City. These ordinances are considered “regulatory,” since they are local laws enacted to regulate activity or set standards for the use and development of public facilities such as streets. These ordinances are adopted by the City Commission and are outside of Zoning Ordinances which are focused on regulating the use of land.

Recommended regulatory ordinance modifications for consideration include:

- Integrate lighting guidelines into the appropriate sections of the Codified Ordinances of Traverse City, under Part 10-Streets, Utilities and Public Services, and Part 14-Building and Housing Code.
- Amend the Codified Codes of Traverse City, Part 13 Zoning Code, Chapter 1372 Landscaping to reflect use of native plants and preservation of trees. Regulate landscape maintenance practices in Riparian Buffer to limit manicured lawns, minimize use of pesticides and herbicides, and restrict dumping of refuse (organic or otherwise).
- Consult with City Attorney, Clerk, and Manager on the alternative approaches to regulating river use. Propose and conduct a fair and open process, working in cooperation with licensees. Propose and adopt changes to the Codified Codes of Traverse City, Part Ten Streets, Utilities and Public Services Code, Chapter 1064 Parks, and related codes. Code changes could include volume limitations placed on licensees, Quiet Zones along the corridor, limitation on the use of alcohol, hours of operations, and disorderly conduct.

- As the need may arise, consider establishing outdoor eating guidelines and potential permit requirements for private use of public space, like those used by many communities for managing sidewalk cafes. This may be an amendment of existing Low Impact and High Impact Park and Public Land Use Permits.

F. Adoption of Local Policies related to River Corridor

The City of Traverse City and the Traverse City DDA should adopt policies that require physical improvement projects on publicly owned property must meet the standards set by the Riparian Buffer Ordinance and other zoning and regulatory ordinances, specifically-

1. The Riparian Buffer Ordinance once adopted.
2. The draft Riparian Buffer Ordinance prohibits parking in the Riparian Buffer, effectively establishing a 25-foot setback for parking. The UNIFIED PLAN recommends a policy that restricts new public parking facilities to a 50-foot setback.

“For the purposes of parking motor vehicles on publicly owned property the riparian buffer zone shall include all land located within fifty (50) feet of the ordinary high-water line.”

Use sketches and photos, use prototypical site-PUBLIC LOT NEAR UNION STREET? View from river (aesthetic) and water quality, wildlife habitat
3. The Downtown Stormwater Guidelines and Best Practices (as prepared by AECComm) and the existing 2019 Storm Water Ordinance.
4. Chapter 1375 Outdoor Lighting ordinance to encourage dark sky compliance. All new public projects should conform to ordinance when improving downtown and riverfront public spaces.
5. Chapter 1372 Landscaping for plant selection and landscape maintenance.

The UNIFIED PLAN recognizes the importance of managing and enforcement of the zoning and regulatory ordinances, and the limitations of city and DDA staff time to conduct this work. As such, we recommend that the needs be evaluated carefully, and adequate staffing level be considered to accomplish the goals of this plan.

G. Amend the Community Master Plan to be consistent with the findings and recommendations of the Lower Boardman River UNIFIED PLAN.

When adopting or modifying new ordinances, it is critical that the Community Master Plan supports the values and guidelines that are reflected in the new ordinances. This can be accomplished in by integrating key findings of the UNIFIED PLAN into the next update of the Traverse City Comprehensive Plan and incorporate the UNIFIED PLAN by reference.

H. Community Recreation Plan Changes

Funding grants through the Michigan Department of Natural Resources (DNR) are available for many of the projects outlined in the UNIFIED PLAN. To be fully eligible for these potential grants, the planned projects should be reflected in the Recreation Plan for Traverse City. Per DNR guidelines, the Recreation Plan is updated every five years, which in Traverse City's case would be in 2021.

The Recreation Plan should include the UNIFIED PLAN recommendations to improve public parks in the project area and proposed trail connections. The City and DDA will need to coordinate Recreation Plan changes with the Parks and Recreation Commission.