

**TOWN OF LELAND  
PLANNING BOARD REGULAR MEETING  
December 04, 2007  
7:00PM**

**ASSEMBLY**

The Leland Planning Board held their Regular Meeting at 7:00pm on Tuesday, December 04, 2007 at Leland Town Hall, 102 Town Hall Drive.

Present were Chairman Michael Leggett, Samuel Richardson, Roy Lettieri, John Crowder, Joe Bryant and Susan Seltzer.

Absent was Russell Baldwin.

Also present were Melody Jennings, Developmental Services Director; Nick Mills, Planner I, Niel Brooks, Planner I and Jenniffer McMillan, Administrative Assistant.

**7:00:47 PM CALL TO ORDER**

Michael Leggett, Chairman, called the meeting to order at 7:00pm. A quorum was present.

**7:01:20 PM APPROVAL OF THE AGENDA**

Michael Leggett, Chairman, asked if there were additions or deletions to the agenda. Chairman Leggett stated that there were a couple of changes to the agenda. Chairman Leggett stated that he would like to delete item #10, add item 12B under discussion items Sign Ordinance Study Committee, move item number 9 to item 6. Also, Item number 6 should be listed as Chuck Mazzarone and not Mazzarone Construction Co., Inc. Roy Lettieri **MOVED**, Samuel Richardson **SECONDED** to approve the agenda as presented with changes stated. The **MOTION CARRIED UNANIMOUSLY** with changes.

- Delete item 10
- Move item 9 to item 6
- Add 12B, Sign Ordinance Study Committee
- Change Mazzarone Construction Company, Inc on item #6 to Chuck Mazzarone

**7:02:26 PM APPROVAL OF THE MINUTES**

Samuel Richardson **MOVED**, Susan Seltzer **SECONDED** to approve the minutes of November 08, 2007 regular meeting. The **MOTION CARRIED UNANIMOUSLY**.

**PLANNING DIRECTOR'S OPENING REMARKS**

Melody Jennings, Developmental Services Director stated that she would like to thank everyone for attending the meeting and showing interest and involvement in the Town of Leland. "We would ask that when making a public comment please ensure that you have signed up for the public comment section. If your comments are directly related to a particular item on the agenda we would ask that you hold your comments until that time. Please turn off or set all cell phones to the vibrate mode since this is a public hearing and that all comments be relative to a subject matter."

[7:03:37 PM PUBLIC COMMENT](#)  
**NONE**

[7:04:05 PM SUBDIVISION – SUB-07-3609](#)  
**LANVALE HILLS LOT 129 SUBDIVISION**  
**CHUCK MAZZARONE**  
**+/- 15,400 SQUARE FEET**

Mr. Mills presented the following:

CASE SUMMARY  
*Preliminary Subdivision Review*

<b>Meeting:</b>	December 4 <sup>th</sup> , 2007
<b>Case No:</b>	SUB-07-3608
Proposal:	<b>Staff Recommendation</b>
<b>Presented By:</b>	Nicholas Mills, Planner

***GENERAL INFORMATION***

**Applicant:** Chuck Mazzarone

**Purpose:** The purpose of this case is to review the preliminary subdivision plan for Lanvale Hills lot 129.

***BACKGROUND***

Chuck Mazzarone currently owns a parcel of land that is located off of Sunburst Way. The parcel is zoned R6 and is part of the subdivision known as Lanvale Hills section 1.

***SUMMARY***

Lot 129 of Lanvale Hills is approximately 15,400 square feet. The applicant wishes to subdivide the lot creating two lots of approximately 6,985 square feet and 8,415 square feet. The minimum lot size for the R6 zoning district is 6,000 square feet. Public infrastructure has been provided for the subdivision of Lanvale Hills and will service lot 129A and 129B.

**Staff Recommendation: Approval**

**Planning Board Recommendation:**

During the opening of this item Planning Board member John Crowder entered the meeting at 7:06p.m.

Mr. Mills stated that the applicant for this item should be Chuck Mazzarone and not Mazzarone Construction Company, Inc. Chairman Leggett asked if the agenda should reflect the change. Ms. Jennings stated yes, that we would correct the change on the minutes and the agenda.

Susan Seltzer **MOVED**, Samuel Richardson **SECONDED** to approve Subdivision – SUB-07-3609, Lanvale Hills, Lot 129 Subdivision, Mazzarone Construction Co. Inc. +/- 15,400 square feet.

The **MOTION CARRIED UNANIMOUSLY AS PRESENTED:**

[7:08:25 PM TEXT AMENDMENT – TXT-07-3663](#)  
**TIME LIMIT FOR APPEALS TO BOA**  
**TOWN OF LELAND**

Mr. Brooks presented the following:

<b>Meeting:</b>	December 4, 2007
<b>Case No:</b>	TXT-07-3663
<b>Proposal:</b>	<b>Amend Zoning Ordinance to Set Time Limit for Appeals to BOA</b>
<b>Presented By:</b>	Niel Brooks, Planner

**GENERAL INFORMATION**

**Applicant:** Town of Leland

**Purpose:** To amend the Town of Leland Zoning Ordinance to set a time limit on how long an applicant has to appeal a decision of the code enforcement officer to the Board of Adjustment. (Amend Sec. 30-79. Appeals from decisions of the code enforcement officer).

**BACKGROUND**

Currently, the Town of Leland Zoning Ordinance does not specify a time limit for appeals to the Board of Adjustment. Most other municipalities in North Carolina have established time limits for appeals. The general rule is that an appeal must be filed within 10 consecutive calendar days from the date of the code enforcement officer's decision. However, a few municipalities have established 30-day limits.

**SUMMARY**

In order to set a time limit for appeals, the Town's Zoning Ordinance would have to be amended. Attached you will find a text amendment that would set a 10-day limit for appeals and also clarify that the decision of the code enforcement is final once the time period for appeals has passed. Staff feels such a change is consistent with the Town of Leland's Land Use Plan.

**Staff Recommendation:** Approval

**Planning Board Recommendation:**

Chairman Leggett asked if we had a form that the public fills out for an appeal. Mr. Brooks stated yes, there is an application form and an appeal form. Mr. Lettieri asked when the officer issues his decision, how do we know when the date of issuance is? Ms. Jennings stated that currently the code enforcement officer issues through certified mail. Ms. Seltzer stated that she did not feel 10 days was enough time. Ms. Seltzer stated that it could be an out of state owner or an estate and she felt that 10 days was not adequate time for the owner. Ms. Seltzer stated that 10 days protected the Town, but we need to look at what is best for the Town and the community and 30 days would be more fair. Ms. Jennings stated "Probably where most of the Town is looked at the 10 days is typically what they are going to be appealing they have been into the office for. Either they have submitted some type of permit or application. Even if they have received a violation notice, the violation notice gives them sufficient time to correct the violation and if they don't, then that's when he can start penalizing. I am thinking that, that's where the 10 days came in. When the applicant comes in they actually make that original application and they are here to make that application. But, it is up to you if you want to change it. If the code enforcement officer is denying something that is strictly by the ordinance then he has no waiver in that. If it's an outright denial because the ordinance stipulates it can't be done then he can't waiver it anyway. The approach is then, these are the options, you take your options or you come back with something that can meet the ordinance."

Mr. Crowder asked if this is any enforcement action made by the code enforcement officer, so it could be anything. Ms. Jennings stated that typically, in his letters the code

enforcement officer has a timeframe that he gives. i.e.: “you have 15 days to correct the problem or fees will start”. Ms. Jennings stated I think we may need two different amendments, typically this refers to there is a violation, you haven’t corrected it, therefore the fines continue or that type of thing. Mr. Crowder stated that the code enforcement officer’s decision is when he writes the letter. Mr. Crowder also stated, the issue is, if he sends it certified, nobody picks up the letter unless he sent a certificate of service. Ms. Jennings stated that the code enforcement officer has an affidavit that is notarized and states that it was mailed. If the person simply refuses to accept their mail, by default, they are refusing it. Mr. Crowder stated there is still a notification issue though, and that’s when you have to hand deliver it. Ms. Jennings stated ultimately, you have to start enforcement. When we waiver on a lot of things what happens is the enforcement is never done. Chairman Leggett stated we would like to know when exactly the ten (10) days begins.

John Crowder **MOVED**, Samuel Richardson **SECONDED** to approve the Text Amendment – TXT-07-3663, Time Limit for Appeals to BOA, Town of Leland with changes:

The **MOTION CARRIED UNANIMOUSLY AS PRESENTED** with the changes stated:

- Change “ten (10) consecutive days” to “thirty (30) consecutive calendar days after the issuance of the code enforcement officer’s decision”
- Change wording of “Code Enforcement Officers decision” to “Code Enforcement Officers Final decision”.

**7:25:29 PM TEXT AMENDMENT- TXT-07-3704**  
**STREET STANDARDS FOR MF CONDOS**  
**TOWN OF LELAND**

Mr. Brooks presented the following:

CASE SUMMARY  
*Text Amendment*

<b>Meeting:</b>	December 4, 2007
<b>Case No:</b>	TXT-07-3704
Proposal:	<b>Amend Zoning Ordinance to Establish Street Standards for Apartment and Condominium Developments</b>
<b>Presented By:</b>	Niel Brooks, Planner

**GENERAL INFORMATION**

**Applicant:** Town of Leland

**Purpose:** To amend the Town of Leland Zoning Ordinance to establish street and driveway standards for apartment and condominium developments. (Create Sec. 30-278. Requirements for new apartment and condominium developments).

**BACKGROUND**

It has come to the attention of staff that the Town of Leland Zoning Ordinance fails to properly address street and driveway standards for apartment and condominium developments. Since these types of developments do not fall under the street standards established in the Subdivision Ordinance because there is no subdivision of land, they are subject only to Article VIII. Parking, Loading, Driveway and Sidewalk Requirements of the Zoning Ordinance. Currently, this section gives no requirements for width of driveways or streets, pavement thickness, utility easements or traffic circulation for new apartment or condominium developments.

**SUMMARY**

In order to address these problems and establish standards for apartment and condominium developments, the Town's Zoning Ordinance would have to be amended. Attached you will find a text amendment that would establish such standards. These requirements are similar to those of townhouse subdivisions. Staff feels such a change is consistent with the Town of Leland's Land Use Plan.

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**Staff Recommendation:** Approval  
**Planning Board Recommendation:**

Chairman Leggett asked if the sidewalks had to meet ADA requirements. Mr. Brooks stated he was not sure if that was in there, but the 5-foot sidewalks do meet and exceed the ADA requirements. It has been the intention of Town Council, they have mentioned it before to start moving toward the 5-foot sidewalks which is definitely ADA requirement, Mr. Brooks stated.

Chairman Leggett asked if there was anyone that would like to make a public comment on this item. There was none.

Ms. Seltzer asked what the standard utility easement was. Ms. Jennings stated we didn't have a set standard and the recommendation came from the town engineer. Ms. Seltzer stated I'm sure it did, I don't mean to be a wise guy, but a 35 foot easement, 70 foot one street seems to be a little excessive. As far as the final plat approval, having the property management or the owners association establish funding and maintenance prior to final plat approval, its seems that is really nailing the developer to the wall. As far as, they can't even get their building out of the ground, and some these buildings we are talking about, an apartment complex or something, it will take a minimum of 6 months. Mr. Brooks stated that they were talking about establishing the covenants. Ms. Seltzer stated that she had never seen that, and a lot of time the homeowners association is never established until the first tenant is moved in, and if it is condo they have to get it in place before the first tenant moves in and if it is apartments they don't even need a homeowners association. Ms. Jennings asked Ms. Seltzer if she had any recommendations. Ms. Seltzer stated that she didn't think that something like that could be done at that level. At what point in the process as far as ensuring that is happening, you can't CO. If you can't CO you can't do anything anyhow. Ms. Jennings stated there are building code issues where the Chief Building Official tells us that he cannot refuse to issue a CO. There are times when we ask for a CO to be held, he says by his standards he can't hold a CO for that. Ms. Seltzer stated that maybe there is something that he needs to be done on his side that gives him that ability. Chairman Leggett stated that is something that he has to go by with the state.

Mr. Brooks stated he wanted to go back to the first comment that Ms. Seltzer made regarding the easement, "that 35 feet is measured from the center of the road." Ms. Seltzer stated it would be more than adequate as it is going to be deeded to the Town. Mr. Brooks stated it was more or less a maintenance easement. Mrs. Seltzer stated, I understand that, they tore the crap out of my street and it never got properly fixed. So, its like, yeh, been there we understand what easements are all about. So, I just think, like I said, instead of what they already got and they've torn up and have them put back properly and stuff like that, lets give them some more of your land. Ms. Jennings stated that she thought the intent is so we don't destroy the property, so we don't have to go in and dig up the roads, because the roads are private, its basically a parking lot. I think the intent was so we don't destroy what's there and dig up the roads to fix utilities that are given to us, Ms. Jennings said. John Crowder stated that we are talking a bout a 22-foot

driveway and a 35-foot utility easement. Mr. Brooks stated “that’s right”. Effectively we give them 6 and one half feet on each side of the road. Mr. Bryant asked why the statement “may require sidewalks on one or both sides of the street included. Mr. Brooks replied that sometimes there are different circumstances with different developments where it may not necessarily be in the best interest to have sidewalks on both sides. What it does is it just gives staff a little bit of leeway there, just doesn’t necessarily pin down. Sometimes we’re dealing with developments that have narrow roads or the topography of the land or something. Making them put sidewalks on both sides could really take a big chunk of their property. It’s more or less to give just a little bit of leeway. What staff does now is recommend sidewalks on both sides. As a general rule, but there are circumstances where because of the topography of the land or so forth and so on where they only require one side of the street. It just gives a little bit of wiggle room.

Roy Lettieri **MOVED**. Ms. Jennings asked if that motion was to accept as is. Mr. Crowder stated that he would second the motion with conditions. Chairman Leggett stated that Mr. Lettieri would have to withdraw his motion to add Mr. Crowder’s conditions. Mr. Lettieri withdrew his motion. John Crowder **MOVED**, Joe Bryant **SECONDED** to approve the Text Amendment- TXT-07-3704 Street Standards for M-F Condos Town of Leland with the following conditions:

- Sec. 30-278 Item E, “Requirements for new apartment and condominium developments” should read: “Sidewalks as required on one or both sides of the streets or driveways shall be constructed to a minimum width of five (5) feet and shall consist of a minimum thickness of four (4) inches of concrete and a minimum four (4) inches of ABC base course. Sidewalks shall consist of a minimum of six (6) inches of concrete at driveway crossings.

**The VOTE CARRIED AS FOLLOWS:**

Chairman Leggett	yes
John Crowder	yes
Roy Lettieri	yes
Susan Seltzer	no
Samuel Richardson	no

**The MOTION CARRIED WITH A 3 TO 2 VOTE.**

**7:56:45 PM TEXT AMENDMENT – TXT-07-3685**

**ALLOW ANIMAL HOSPITAL IN C-3**

**E.G. DALE**

Mr. Brooks presented the following:

CASE SUMMARY  
*Text Amendment*

<b>Meeting:</b>	<b>December 4, 2007</b>
<b>Case No:</b>	TXT-07-3685
Proposal:	<b>Amend Zoning Ordinance to allow Animal Hospital/Veterinary Clinic as a permitted use in the C-3 District</b>
<b>Presented By:</b>	Niel Brooks, Planner

**GENERAL INFORMATION**

**Applicant:** E.G. Dale

**Purpose:** To amend the Town of Leland Zoning Ordinance to allow Animal Hospital/Veterinary Clinic as a permitted use in the C-3 zoning district. (Amend Sec. 30-181. Permitted uses).

**BACKGROUND**

Currently, the Town of Leland Zoning Ordinance does not allow Animal Hospital/ Veterinary Clinic as a permitted use in the Commercial Trucking (C-3) district. Currently, there are 27 permitted commercial uses allowed within the C-3 district – including commercial kennels – and 8 residential uses. Animal Hospital/ Veterinary Clinics are currently allowed only in the C-1, C-2 and PUD zoning districts.

**SUMMARY**

The applicant wishes to amend Sec. 30-181. Permitted Uses to allow for animal hospitals within the C-3 district. In order to allow for the use of animal hospitals, the Town’s Zoning Ordinance would have to be amended. Attached you will find a text amendment that would allow Animal Hospital/Veterinary Clinic as a permitted use. Staff feels such a use is consistent with the Town of Leland Land Use Plan.

**Staff recommendation:** Approval

**Planning Board recommendation:**

**Supporting Materials:**

1. Amended Permitted Use Table
2. Consistency statement
3. Application with supporting materials

Susan Seltzer **MOVED**, Roy Lettieri **SECONDED** to approve the Text Amendment – TXT-07-3685

Allow Animal Hospital in C-3, E.G. Dale.

The **MOTION CARRIED UNANIMOUSLY AS PRESENTED.**

**MASTER LAND USE PLAN – MLUP-07-3665**  
**REVISION OF THE WILLOWS MASTER LAND USE PLAN**  
**KARDAN HOLDINGS, LLC**  
**+/- 135.70 ACRES**

As per changes to the agenda, this item was deleted until further notice.

**7:59:03 PM REZONING – REZ-07-3666**  
**AREA NEXT TO HWY 74 AND THE WILLOWS**  
**KARDAN HOLDINGS, LLC**

Mr. Brooks presented the following:

CASE SUMMARY  
*Rezoning Application*

<b>Meeting:</b>	December 4, 2007
<b>Case No:</b>	REZ-07-3666
<b>Proposal:</b>	<b>Rezone parcel 0370005576 between Hwy. 74 and The Willows from C-2 to MF</b>
<b>Presented By:</b>	Niel Brooks, Planner

**GENERAL INFORMATION**

**Applicant:** Willows II, LLC

**Purpose:** Rezone Parcel # 0370005576 between Hwy. 74 and The Willows from C-2 to MF

**BACKGROUND**

The applicant has requested the Town rezone the 43.34 acre parcel (Parcel # 038BB032) between Hwy. 74/76 and The Willows from C-2 (Regional Commercial Business) to MF (Multifamily).

## **SUMMARY**

After a review of the requested zoning change, staff has concluded that the rezoning satisfies the Town of Leland Code of Ordinances and is consistent with the Town of Leland Land Use Plan. The property to be rezoned is bordered to the west and south by Highway 74/76. The Waterford development is on the other side of Hwy. 74/76. To the east, the property is bordered by The Willows development. To the north, the property is bordered by nine (9) parcels zoned R-15; three (3) parcels zoned C-3 (North Brunswick Industrial Park); and two (2) undeveloped parcels zoned MF.

Staff feels that the exiting C-2 zoning classification is inappropriate for this property considering the types of uses allowed in C-2 and the accessibility of the property. The proposed change would allow for greater multifamily opportunities in an area of town that has been identified by the Lawrence Group in the draft Master Land Use Plan as ripe for development of higher-density residential uses.

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**Staff Recommendation:** Approval

**Planning Board Recommendation:**

## **ATTACHMENTS**

1. **Map**
2. **Application Packet**
3. **Consistency Statement**

Mr. Brooks stated that although the Case Summary and agenda stated the applicant as Kardan Holdings, LLC, The Willows II, LLC is the correct name for the applicant. Mr. Lettieri asked if there would be access from Hwy 74/76 into the Willows. Mr. Brooks stated that there would never be access from Hwy 74/76 into the Willows. Dan Hilla stated they have been working on this property with staff. Mr. Hilla stated that he also is the owners of The Willows. At first there was only one access and that was through the Willows. Staff made it clear that in order to make this a viable project we would need a secondary entrance to the property. So for about the past year or so, we have been working on extending Oak Lane or getting an easement to extend Oak Lane down. All the tax maps show the road going all the way to our property but it really stops about 100 or 150 feet from our property. So we were just able to secure that easement where we now have that secondary entrance to the property. We also gave a 30-foot easement to the Town, and I believe there is a plan within the Town to connect that to WB&S Road through a sewer easement according to Shane the engineer and we told him that we would be happy to help with that in any way we could. All along we knew the Leland thoughfare plan showed Northgate Drive coming through attaching or connecting to Oak Lane. Also Division Drive is a private road and that was the problem and there is a big ditch. Chairman Leggett asked if there was anyone here for a public comment on this item. There were none.

Susan Seltzer **MOVED**, Samuel Richardson **SECONDED** to approve the Rezoning-REZ-07-3666, Area Next To Hwy 74 And The Willows, The Willows II, LLC:  
The **MOTION CARRIED UNANIMOUSLY AS PRESENTED.**

## **8:08:15 PM DISCUSSION ITEMS:**

### **a. Tree Ordinance Committee Request**

Ms. Jennings stated that this item was placed on the agenda to let the Planning Board know that the Parks and Recreation Committee would like to have two members of the Planning Board sit on the Tree Ordinance Committee. Chairman Leggett asked Ms. Jennings to bring this item up on the March agenda and have a

member from the Parks and Recreation Committee to be here to give a brief discussion about the committee.

**b. Sign Ordinance Study Committee**

Mr. Brooks stated that the Planning Board, BOA and Town Council have all agreed the sign ordinance needs some revisions. There is a lot of commercial growth going on and unfortunately the sign ordinance has not properly addressed that growth. What we are seeing is there are a tremendous amount of variances going to the BOA. I have been doing some research on sign ordinance revisions, what other municipalities are doing, best practices, ways to address this and ways to fix these things. BOA has recommended and I would like to recommend that planning board appoint a committee to study the sign ordinance. Staff could lead that committee, walk us through what we need to do and issues that need to be addressed. But it is very important to get a wide variety of stakeholders involved who know the business perspective, the sign industry perspective. We need all these different people on board so we can come up with something that is not too restrictive. With that being said, the staff would like to ask the planning board to consider appointing a sign committee. Staff would recommend 1 or 2 members from planning board, board of adjustments, possibly a town council person. I am sure Ms. Jennings and I would be on the committee and a representative of the business community, a representative of the sign industry and then just some general citizens. With that being said, if you would like for us to go ahead and advertise for interested citizens through the newsletter we will do so. Chairman Leggett stated he did not have a problem with staff moving forward with this. Chairman Leggett stated to use the discretion of the staff in moving forward.

**8:22:47 PM OLD/NEW BUSINESS**

- a. Monthly Reports  
Monthly reports will be sent out at a later time

**8:25:04 PM ADJOURNMENT**

Susan Seltzer **MOVED**, Samuel Richardson **SECONDED** to adjourn the meeting at 8:25pm  
The **MOTION CARRIED UNANIMOUSLY.**

Respectfully submitted;

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Michael Leggett  
Chairman

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Jennifer McMillan  
Administrative Assistant

Approval Date: \_\_\_\_\_