

## **Town of Clear Lake - Plan Commission Meeting Minutes – August 5, 2013**

Plan Commission President Mike Long called the meeting to order at 7:00 PM. The following members of the Plan Commission were present.

Bonnie Brown  
Roger Dammeier  
Chris Folland  
Alan Korte  
Mike Long

Plan Commission members Emma Brown and Bob Lewis were absent. Zoning Administrator Amy Schweitzer was present for the meeting. President Long concluded a quorum was present.

President Long asked the Plan Commission to review the Meeting Minutes from May 6, 2013. Ms. Brown made a motion to accept the minutes of the May 6, 2013 meeting as presented. Mr. Folland seconded the motion. Motion carried with four votes in favor of the motion. Mr. Korte abstained from the vote because he was not present at the May 6 meeting.

President Long announced the Plan Commission would be holding a Public Hearing on proposed amendments to the Unified Development Ordinance. Long stated that most of the amendments were administrative including relocating the floodplain regulations from development standards to an appendix. Mr. Folland made a motion to suspend the regular Plan Commission meeting. Mr. Dammeier seconded the motion. Motion carried with all in favor. Mr. Dammeier made a motion to open the Public Hearing. Mr. Korte seconded the motion; motion carried with all in favor.

President Long welcomed comments from the audience. Mr. Gerry McArdle of 294 Prospect Street asked for an explanation of how these amendments come about. It was explained that many of the changes start out as questions or wording issues from the Zoning Administrator. Then, the Executive Committee of the Plan Commission meets to discuss those issues. Actual changes are then proposed in a “red pen” format. Then, the proposed amendment goes before the full Plan Commission for discussion and eventually a public hearing. McArdle questioned the Executive Committee – who makes up the committee and where is the committee’s existence spelled out? Staff Schweitzer read aloud from the Article 7 of the Plan Commission’s Rules of Procedure. McArdle was also informed that the proposed amendment in front of the public and the Commission tonight was reviewed by the Plan Commission at its regularly scheduled May meeting this year.

Mr. Folland asked President Long about whether McArdle’s comments were germane to the hearing and asked if a time limit could be set for comments.

McArdle agreed to move on. McArdle asked about page 1-8, Lake Properties. He asked the Plan Commission if they understood that by doing this, every single lot will have floodplain, and technically will have to have a survey and get flood insurance and go through the letter of map amendment process, spending \$500-\$600 per property.

On page 5-5, McArdle asked about exempt Accessory Structures in the Lake Yard Extended. He asked specifically what type of structure the Plan Commission is trying to prohibit. Mr. Folland stated not a dock or a lift or a canopy. If the Town regulates it on land and it is put on a dock, it’s a structure.

McArdle asked if an ILP was required for a flagpole, volleyball net, and basketball goal. Has there been a structure other than Rumsey's that someone has complained about? Mr. McArdle asked if one vertical dock box has precipitated this change. McArdle commented that the Indiana Department of Natural Resources regulates the dock in the water.

Plan Commissioner Folland reminded Mr. McArdle that the public hearing was an opportunity for public comment. It is not a question and answer period. Regarding McArdle's questions about structures in the Lake Yard Extended, the Plan Commission came to the understanding that the Town has no control over structures in the lake. The proposed language allows the Plan Commission to regulate structures that the Town would regulate on land – such as a floating restaurant or a barge with restrooms or even structures the IDNR considers temporary. Folland concluded that the Town was simply reserving its right to regulate structures in the lake, excepting out docks, lifts, and canopies.

Mr. McArdle asked about Dr. Rumsey's dock box. Why was this dock box a problem? McArdle stated there was nothing wrong with it on the dock. Plan Commissioner Bonnie Brown stated it was a structure. McArdle stated that dock boxes can come in all sizes. McArdle commented that there isn't a dock box that would ruin his view because he has no view because of boats, lifts, and covers at the adjacent condos. Mr. McArdle stated beauty is all in the eye of the beholder.

In reference to page 5-13, Mr. McArdle asked if stone would be an approved screening material.

Mr. McArdle asked about the change in the applicability of the landscaping requirements from 40% to 20% of square footage. McArdle asked if this percentage was based on cumulative square footage or building footprint?

Regarding page 5-38, 2a, Mr. McArdle asked President Long if he was consulted on the change. President Long stated yes, he was consulted and pleased with the change. McArdle asked about the change in the length of a façade for foundation plantings from 80-feet to 60-feet.

On page 5-47, Mr. McArdle asked about Mechanical Equipment. If his condenser goes bad and has to be replaced, does he have to get an Improvement Location Permit. Schweitzer stated it depends, and read aloud from the proposed amendment, "*Upgraded Mechanical Equipment: An existing mechanical equipment system is upgraded resulting in a greater footprint, change in placement, greater height, or greater cubic feet in volume.*" If the new condenser unit met the aforementioned conditions, then yes, and ILP would be required. McArdle stated what if his property was on separate lots, does he then have to get an Administrative Subdivision all because his air conditioning condenser unit went bad? Schweitzer stated no, and read aloud from the UDO, Section 9.05 D Prerequisite.

McArdle commented further on the Street Yard Exception and Lake Yard Exception for Mechanical Equipment, noting that the Lake Yard Exception only applies to air conditioning units, not generators. McArdle stated that the lots in the 300's are only 30-feet wide, and these units can't be put in side yards. Generators are not nearly as loud as they used to be.

Page 11-9 indicates that only one dock box is allowed. McArdle asked if seating with storage under the seat counted as a dock box? And, did that mean only one seat was allowed? McArdle asked if the seat has a back on it that goes higher than three feet, does that mean it's not allowed? McArdle reminded the Plan Commission how much stuff has to get put away at the end of the weekend, and with most folks being almost 60 years old, it is too much to get all of that back to the garage.

President Long stated that Plan Commission was just trying to establish some general rules. Mr. McArdle stated it doesn't seem that way; it is always ask first.

In conclusion, Mr. McArdle stated that he has a problem with four members of the Town Council being on the Plan Commission. He noted the Clear Lake Directory indicates Bob Lewis, Chris Folland, Alan Korte, and George Schenkel are all on the Town Council and the Plan Commission. The Plan Commission reported that Directory is incorrect because Mr. Korte took Mr. Schenkel's place on the Plan Commission. Schenkel is no longer on the Plan Commission. Furthermore, Folland indicated that Kay Kummer was the only eligible town employee to sit on the Plan Commission, as opposed to a Town Council member, and she's not interested in being on the Plan Commission.

Mr. Dan McArdle of 686 South Clear Lake Drive introduced himself. He stated that Clear Lake ends at the sea wall, and going out beyond the sea wall is going to create some legal problems for the Town. Mr. Dan McArdle recommends the Plan Commission not pass this part of the UDO Amendment. He stated he had spoken with folks in his neighborhood and they say stay out of the water and off their docks. No one wants more regulations. Mr. Dan McArdle also stated the feeling among many folks he spoke with was there's no point in going to the meeting because the Town is going to do what they want anyway.

Mr. Gerry McArdle asked a few follow up questions regarding the flood hazard amendments. When does this go in to affect? Is there a fee for the Floodplain Development permit? If a portion of a lot is in the floodplain, does that mean they are required to get flood insurance? How is the crawl space considered with respect to the lowest floor? Why is the cost of compliance at 50% when other portions of the UDO are different? The Plan Commission responded that the new flood hazard map and ordinance would go into effect near the beginning of 2014, and the entire text of the floodplain regulations are dictated by FEMA and the IDNR. Schweitzer stated there was not an additional local (Town) fee for the flood permit. She also explained that flood insurance was required when a portion of a residential structure is in the floodplain – not just a portion of the lot. However, she explained that some mortgage companies often make this mistake. Schweitzer read the definition of "lowest floor" and concluded that it included the crawl space. McArdle disagreed. Schweitzer stated she would contact the Indiana Department of Natural Resources for clarification if such an issue came up.

Audience member Neil Federspiel of 812 South Clear Lake Drive introduced himself and began by asking about the Town's tie to the floodplain mapping. Mr. Folland responded that FEMA completed a new flood map for all of Steuben County, including the Town of Clear Lake. The Town really had little to do with it. Mr. Federspiel asked if they were will to provide a master set of elevations. Folland said that they did and originally put nearly 20% of the cottages in the floodplain. Folland told the audience articles had been in the Clear Lake News and the Town has really tried to represent the interest of the homeowners, with the majority of the cottages originally in the floodplain now removed from the floodplain.

Mr. Federspiel asked about road improvements and rights-of-way and encouraged the Town to investigate a comprehensive approach to surveying the Town and acquiring adequate rights-of-way for the roads around the lake to better accommodate pedestrians and cyclers. Such a survey should be easily accessible in digital form and have the actual rights-of-way and paved roadways.

Mr. Korte stated that they would have to get together and talk sometime about that. Korte reported that the Town is working with lawyers and is constantly working to make sure there is adequate right-of-way that lines up with the actual paved road. Mr. Folland stated the Town has been working with an engineering firm and the Town has \$1.6 million in road work even though there is only \$90,000 each year to spend on improvement project. Plan Commissioners assured Mr. Federspiel that each time road work is done, it is surveyed prior to the work.

Mr. Federspiel asked why the assessed value of certain parts of the lake were double or triple what other parts of the lake. The Plan Commission stated that assessments are from the Steuben County Assessor's Office, and the Town has nothing to do with them.

Mr. Federspiel asked for clarification regarding walkways and air conditioning condenser units within setbacks. Sidewalks are exempt from setbacks, but air conditioning condenser units are not. Mr. Folland stated the goal is to keep side yards passable so that emergency personnel can get to the lake side. Ms. Brown stated this poses the greatest difficulty for smaller lots. Federspiel thanked the Plan Commission for their time.

Dr. Todd Rumsey introduced himself and stated his address as 814 South Clear Lake Drive. He asked what a hearing would be without him commenting on dock boxes. Rumsey stated that he does not agree with limiting dock boxes on docks, and he opposes the Town limiting what goes on people's docks.

Mr. Dan McArdle asked why the Town was spending money to widen Chapel Avenue. Plan Commission responded that Chapel would be the detour for Buck Point Drive while it was under construction.

President Long asked if there were any other questions or comments from the audience. Hearing none, Mr. Folland made a motion to close the Public Hearing. Mr. Dammeier seconded the motion. Motion carried with all voting in favor. Mr. Folland made a motion to reopen the regular portion of the Plan Commission meeting. Mr. Dammeier seconded the motion. Motion carried with all voting in favor.

Resuming the meeting, under Old Business, President Long asked for Plan Commission discussion on the proposed UDO Amendment. The Commission agreed the Executive Committee needed to go back and review a couple of items.

For the Executive Committee Report, Long reported the Executive Committee had met and discussed the proposed UDO Amendment.

President Long asked for the Zoning Administrator's Report. Schweitzer reported that 2013 had been a very slow year. There were no Administrative Subdivisions to report, but there might be a rezoning for the next regularly scheduled Plan Commission meeting. Schweitzer distributed final copies of the Comprehensive Plan Update.

President Long asked for other discussion items from the Plan Commission. Ms. Brown asked about requiring horses to wear diapers or requiring their owners to pick up after them just the way it is required of dog owners. There was some discussion about enforcement.

Mr. Korte asked for clarification of an ILP for volleyball nets. Installation of a volleyball net would not require an ILP. However, things changes if a hard surface volleyball court is installed.

There being no additional business to come before the Plan Commission, President Long entertained a motion to adjourn. Motion to adjourn made by Mr. Folland; Mr. Dammeier seconded the motion. Motion carried; meeting adjourned at 8:27 PM.

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Amy Schweitzer, Secretary