

Town of Clear Lake - Plan Commission Meeting Minutes – November 4, 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
Emma Brown
Roger Dammeier
Chris Folland
Alan Korte
Mike Long

Plan Commission member Bob Lewis ^{was} ~~were~~ absent. Zoning Administrator Amy Schweitzer was present for the meeting. Michael Hawk, attorney for the Plan Commission, was present. President Long concluded a quorum was present.

President Long asked the Commission to review the minutes from the August 5, 2013 meeting and to suggest any corrections. Mr. Dammeier made a motion to approve the minutes of the August 5, 2013 meeting as presented. Mr. Korte seconded the motion. Motion carried with five votes in favor, zero votes against with Mrs. Emma Brown abstaining from the vote because she was not present at the August meeting.

Mr. Long announced that a rezoning application, Case #2013-01, had been filed by By and Sue Dickes for a 2.3 acre tract of land located at the northeast corner of the intersection of West Clear Lake Drive and Penner Drive.

Long entertained a motion to suspend the regular meeting. Mr. Folland made a motion to suspend the regular meeting. Ms. Bonnie Brown seconded the motion. Long asked for a motion to open the Public Hearing for Case #2013-01, the Dickes Rezoning request. Mr. Korte made a motion to open the Public Hearing for the Dickes Rezoning request. Mrs. Emma Brown seconded the motion.

Long asked who was present to speak on behalf of Mr. Dickes? Mr. John Wilhelm of 206 West Clear Lake Drive introduced himself, stating that Mr. and Mrs. Dickes were presently out of town. Mr. Wilhelm explained that the rezoning request grew out of several complaints this summer that the grass on the property has not been mowed. Mr. and Mrs. Dickes have owned the property for 10-12 years and always wanted to keep it natural. They've planted trees. By Dickes is an Ag graduate from Purdue, and wanted to keep it both natural prairie and wetland. There are many species of animals that reside in the wetlands and sometimes the great Blue Herron can be seen in this area. Wilhelm went on to explain that Mrs. Dickes had taken measures to eradicate evasive plants around the lake, naming several. Wilhelm continued by stating that there were many misconceptions as to why the property had not been mowed, but the reason was that Mr. Dickes wanted to keep it natural.

Wilhelm continued stating several people suggested to Mr. Dickes that the property be rezoned to Conservancy, and after looking at what Conservancy meant – land preserved from development and protect environmentally sensitive areas, Dickes thought it was exactly what he wanted to do. That's when he requested the Plan Commission rezone the property from LR (Lake Residential) to CO (Conservation). This would allow the plant species in the area to continue to grow, and the area to become conservation areas for all to enjoy. Mr. Wilhelm said the rezoning was consistent with Policy 6.1 - *Encourage and*

need to be put into focus. Wilhelm stated that all of Round Lake was surrounded by areas of brush and there is always potential for fire in these areas. The eastern and southern part of this parcel is actually a wetland. Regarding the brush blocking the stop sign, Wilhelm stated this was the Town's problem, not Mr. Dickes problem and the Town has recently trimmed back the brush. Wilhelm stated the purpose of the fence is to differentiate the property from the adjacent lots concluding that the fence can be removed if the Plan Commission wants the fence down. In summary, Mr. Wilhelm stated that this tract of land has always been left natural and never been mowed.

Mr. Wilhelm stated that the Plan Commission is not bound by any previous decision, and should not be concerned about setting precedent for other areas around Clear Lake. He suggested that Spangler Grove could be considered a fire hazard and the tall vegetation makes it difficult to see around the corner. Mr. Wilhelm stated that the Dickes' tract of land has been natural many years and deserved to remain natural charging the Plan Commission to respect what's presently on the land.

Mr. Mark Yackee, 340 Penner Drive, introduced himself. He stated that all of Penner Drive abides by one set of the Town's rules and that is the grass must be 9" high or less. Why should this property be any different. Mr. Yackee stated that there are drawbacks to this property not being mowed and maintained including numerous snakes, groundhogs, deer, and too many near misses with vehicles and pedestrians or wildlife.

Ms. Heidi Smith expressed concern about Mr. Wilhelm's statement that the brush blocking the stop sign was not Dickes' problem, but the Town's problem. Bickering back and forth does not solve the problem. Furthermore, Smith stated that rezoning the land to CO (Conservation) District will continue to make issues, "not his problem." Ms. Smith continued stating that there are electrical lines on that property that are a concern, as well as the fact that Dickes is physically not here to inspect or maintain the property.

Plan Commission member Bonnie Brown asked how the fires started. Mrs. Smith stated that she was not sure.

Plan Commission member Emma Brown asked who declared the area a wetland. Plan Commission member Folland stated that the Army Corp of Engineers generally declares areas to be wetlands, and Staff Amy Schweitzer reported that the Steuben County GIS showed a portion of the tract of land to be a wetland.

Mr. Patrick Nagle, 140 Lakeview Drive, introduced himself. He stated that he loves the Dickes' and stated he believes that when Mr. Dickes purchased that property, his intention was to conserve it. Nagle stated Dickes had good intentions when he purchased it, but now it is starting to cost money. Nagle suggested the Board consider balancing the need to conserve the marshy side of the property and have the other half mowed to a safe level.

Bruce Spangler stated the condition of Spangler Grove is awful, and suggested that a lawn more was needed. He stated Spangler Grove is not adjacent to the lake, and each spring it is burned down and it comes back. Spangler stated that comparing Spangler Grove to the Dickes property was not comparing apples to apples, but also suggested if Dickes donated the property to the Clear Lake Township Land Conservancy, it would be different.

Plan Commission Staff, Amy Schweitzer, told the Plan Commission that Dick Waterfield, an adjacent owner, had contacted her via telephone and sent an email documenting his support for Dickes request for the rezoning. The email was included in the Staff Report.

paved edge of the road to the other paved edge of the road. Ms. Brown questioned the possibility of an easement or obtaining a 40-foot right-of-way.

Plan Commissioner Emma Brown spoke on the difference between the general terms “conservancy” and “conservation.” A “conservancy” is an organization according to the dictionary. “Conservation” is a district or a piece of property that is set aside for careful preservation or protection of something. Brown believes the Town’s weeds and rank vegetation ordinance only exempts wetlands and conservancy areas; it does not exempt owners of land that is zoned CO (Conservation District).

Folland stated that is still an open question – who has the authority to say to what conservancy areas as mentioned in the weeds and rank vegetation ordinance are intended to include? As a Town Council member, Folland believes this rank vegetation ordinance needs reviewed. Is it being administered and implemented the way it was intended? If the zoning is AG (Agriculture) or CO (Conservation), then the Town doesn’t enforce the weeds and rank vegetation ordinance and thus there is now a misconception that we can rezone the land to CO (Conservation) so it doesn’t have to be mowed.

Folland asked Mr. Wilhelm about tabling the Dickes’ Rezoning Application citing there were too many issues. Wilhelm agreed that there was a need for “homework” on all parts. For clarification, Plan Commissioner Alan Korte asked if it was the owners’ intent to not mow any more. Mr. Wilhelm stated that the owners intended to keep the property natural.

Mr. Folland asked if the owner would consider granting the Town right-of-way in that area. Wilhelm stated that he would be happy to mention this issue to Mr. and Mrs. Dickes. Folland stated that Town Council would need to get involved with that discussion.

Mrs. Emma Brown made a motion to table the Case #2013-01, the Dickes Rezoning Application, until the February 3, 2014 meeting. Mr. Folland seconded the motion. The Plan Commission decided that an action list was necessary to make sure everything was in place for final action at the February meeting. The action list includes:

- 1) Request the Town Council clarify its intent with regard to “conservancy areas” in the definition of weeds and rank vegetation.
- 2) Research the possibility of acquiring right-of-way along the subject parcel where West Clear Lake Drive and Penner Drive exist.
- 3) Identify specific areas on the subject lot that the interested property owners believe need to be maintained even if the lot is rezoned to CO (Conservation).
- 4) Does the existing “Conservation Sign” on the property meet the Town’s sign regulations?
- 5) When was the existing wire fence installed and did/does it meet the Town’s fence regulations?

There being no additional discussion, President Long took a vote on the motion. The motion carried with six votes in favor and zero votes in against. The Dickes’ Rezoning Application is tabled until the February, 2014 meeting.

Under, Old Business, President Mike Long stated that the public hearing for the 2013 Text Amendment to the Unified Development Ordinance had been held in August. From the comments received, the Plan Commission Executive Committee decided three changes were necessary. Staff Schweitzer reviewed those changes with the Plan Commission:

- 1) *Page 5-46, Mechanical Equipment Standards for most districts (except LR), the Project Applicability was updated to be consistent with the Project Applicability in LR. Additionally, the standard herein regarding Upgraded Mechanical Equipment was relaxed. There were also some minor modifications to Section D, Location, on this page.*

